



City of Santa Barbara California

PLANNING COMMISSION STAFF REPORT

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PROJECT: New Zoning Ordinance (NZO) Draft Module #2: Development Standards
TO: Planning Commission
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I. PURPOSE

The NZO Joint Committee Staff Report (Exhibit A) and Staff Notes (Exhibits B & C) provide technical discussion and comments on the focus topics for *Module #2: Development Standards* (Module 2). This report relies on that report as a foundation while summarizing the proposed changes and revisions stemming from public comment and NZO Joint Committee (Committee) direction.

Module 2 (Exhibit D) reflects *extensive* reformatting with efforts to condense and simplify the code. It will be difficult for the reader to compare the existing Zoning Ordinance with the NZO, because the organization of the code has changed completely. Where some existing code sections are unclear, repetitive or silent on applicability, or where terms are poorly defined, NZO attempts to add specificity, efficiency and clarity. In some instances, text is replaced with a table and in other instance, rewording or reformatting for clarity has resulted in a lengthier section of text. Relevant ordinance sections of the current Santa Barbara Municipal Code (SBMC) and proposed NZO are provided for reference after each topic discussion.

II. DISCUSSION

A. Residential Unit, Building Attachment, Detached Guestrooms & Accessory Building Size

- Residential Unit Standards - Studio

With the exception of Affordable Efficiency Dwelling Units, which can be 150 square feet, the current Zoning Ordinance requires a minimum residential unit size of 400 square feet. In response to current trends for small or tiny homes, NZO proposes to reduce that minimum to 220 square feet of livable floor area for *studio units* only. Decreasing the minimum unit size does not result in an increase to density for either AUD or other projects. Some concern was expressed for the small unit size but overall, the Committee was supportive.

Frequency: Low Impact: Low to Moderate.

(Since the minimum size is currently 400 square feet, developers currently do not propose smaller units, but staff has not seen a large number of modification requests for unit size.)

[Ref. SBMC §28.87.150, NZO §28.23.110.B]

1. Building Attachment

The current Zoning Ordinance requires a minimum eight foot (8') connection of *one* wall or roof between accessory buildings and main buildings, or if the connecting wall is less than eight feet (8'), then one hundred percent (100%) of that wall must be an integral part of the main building. If the accessory building is not attached to a main building, then a minimum five foot (5') separation from a main building is required. (Note: The minimum distance between buildings is proposed to be removed from the ordinance as discussed later in this report.) The current definition for building attachment is problematic in several ways: 1) it is vulnerable to exploitation resulting in unconventional building configurations, 2) it is silent on the minimum connection between multiple main buildings or mixed use buildings, and 3) it does not address floor to ceiling connections.

The building attachment standard is used to regulate zoning standards for several types of development, such as: location and size of detached accessory buildings, limitations on front yard development, defining multi-unit development and mixed use buildings. NZO proposes revised standards for building attachment that address the current ambiguity while still keeping the intent of the existing language. New text will include not just accessory buildings, but all buildings and structures, and will describe an eight foot by eight foot (8' x 8') area for shared building walls and shared floor to ceiling connections. The Committee was supportive.

Frequency: High Impact: Low

[Ref: SBMC §28.04.010, NZO 28.23.030]

2. Detached Guestrooms

Floor plan configurations for detached guestrooms (accessory buildings with livable space) can easily lend themselves to conversion to unpermitted dwelling units. This was discussed in depth with the Planning Commission in 2001 and policies that emerged from that dialogue and which have been implemented by Planning staff are now proposed for codification in the NZO. Detached guestrooms would not be allowed to include indoor bathing facilities, more than one sink, or cooking facilities. However, requests for such amenities could be considered through a Performance Standard Permit (PSP) as a means of balancing concerns about conversion to illegal dwelling units and the flexibility to allow certain residential enhancements. The PSP will be further described in NZO Module 3: Administrative Procedures.

Frequency: High Impact: Moderate

[Rev: SBMC §28.04.590, NZO §28.23.020.G, NZO §28.23.110.E]

3. Accessory Buildings and Garages, Floor Area Increase

The current Zoning Ordinance limits the maximum size of detached accessory buildings to 500 square feet and garages and carports to 500 or 750 square feet, depending on the zone and size of the lot. At a suggestion from the public, staff explored allowing a greater maximum size range for accessory buildings and garages/carports on larger lots developed with one house. Staff is generally supportive of Zoning Modifications on large lots for garages/carports and accessory buildings. Since accessory buildings are intended to be subordinate to the main building and the use incidental to the main building, NZO proposes both a maximum *aggregate* building size and a maximum *individual* building size so that accessory buildings do not appear to be main buildings.

Whereas the maximum size for a garage/carport on larger properties is now 750 square feet, NZO proposes to allow up to 1,250 square feet but, with no individual garage/carport structure larger than 750 square feet. Similarly for accessory buildings, the maximum floor area of 500 square feet is proposed to be raised to 1,250 square feet, limited to 750 square feet in a single structure.

In order to address concerns about unpermitted dwelling units, an additional limitation is proposed to limit the amount of *livable floor area* in detached accessory space to 500 square feet total on site. To address site compatibility, design review by the appropriate review body will be required for accessory buildings and covered parking over 500 square feet in area. Overall, the Committee was supportive. Full details are presented in NZO Table 28.32.020: *Maximum Floor Area, Accessory Buildings and Structures – RS Zones*.

Frequency: High Impact: High

[Ref. SBMC §28.87.160, NZO §28.23.020]

B. Nonconforming Buildings and Uses

Prior to the mid 1990's, the City's ordinance approach to nonconforming buildings and uses was traditional, in that, over time they were expected to be replaced with buildings and uses that conform to current zoning standards. However, it was recognized that many nonconforming buildings are desirable, and that the community could benefit from them remaining. The current Zoning Ordinance therefore accommodates nonconforming buildings by allowing additions, alterations, even complete demolition and reconstruction.

One of the unintended consequences of the 1975 down-zone was increased setbacks for many parcels from five feet (5') to six feet (6') or more, resulting in many nonconforming structures built five feet (5') from interior property lines (Exhibit E). NZO proposes a minimum standard of five feet (5') from the property line as the guideline for capturing and addressing many nonconforming situations. Some of the changes proposed include allowing windows and doors to be added, relocated, or increased in size; allowing a small increase to the height of a building; and even allowing small additions to main buildings in setbacks without requiring a modification when certain limitations are met.

1. Alterations to Nonconforming Buildings

The current Zoning Ordinance allows nonconforming buildings to be maintained, improved, and altered provided that there is no change of use, and no change to the basic exterior characteristics or appearance of the structure. However, the language is vague and can be open to interpretation. NZO proposes to clarify and specify the types of alterations that are of concern while allowing most alterations that are proposed at least five feet (5') from an interior property line to be permitted. For example, window and door changes in the front setback will be allowed, but window and door changes on the second story in an interior setback will not be allowed. Buildings may be increased in height in the setback, but only by 42". Buildings constructed closer than five feet (5') to an interior lot line will be subject to more restrictive limitations, such as: no conversions from garage or carports to any other use, no conversions from residential to nonresidential and vice versa, no new residential units in the setback, no new or relocated windows or doors closer than five feet (5') in the interior setback. These changes would address a high volume of modification applications that are frequently approved. The Committee was supportive.

Frequency: High Impact: Moderate

[Ref. SBMC §28.87.030.D.1.a & b., NZO §28.25.050]

2. Additions to Nonconforming Structures in Setbacks

NZO proposes to allow small first floor additions to nonconforming buildings along the same wall plane as the existing building, but no closer than five feet (5') to an interior lot line. This would provide relief for buildings that were legally constructed prior to the 1975 down-zone, five foot (5') setback. Currently, proposals for additions must either jog inward by one foot, an awkward design result, or a zoning modification must be requested, which is usually supported by staff. The Committee suggested that a modest addition would be supported. A 20 linear foot limit and a total amount of new encroachment less than or equal to the amount of the current encroachment is proposed as a means of regulating the size or portion of the addition *within the setback*.

Frequency: High Impact: Moderate to High

[Ref. SBMC §28.18.065.C, NZO §28.25.060.B]

3. Nonconforming Garages and Carports Expansion

Garages and carports that are nonconforming to current interior size standards are common on older developments. NZO proposes to allow "undersized" garages and carports that are nonconforming to the front or interior setbacks to be expanded, or demolished and rebuilt to meet the current interior size standards, provided that the number of parking spaces is not increased

and that they do not exceed the current minimum dimensions now required. The Committee was supportive.

Frequency: High Impact: Moderate

[Ref. NZO §28.25.070]

4. Nonconforming Residential Density – 250 Square Foot Allowance

For existing properties with nonconforming residential density (more residential units on a lot than currently allowed), the existing Zoning Ordinance prohibits alterations or additions that would increase density or floor area. NZO proposes minor relief through a *one-time* allowance of up to 250 square feet of new floor area for use in either a community area such as laundry room or, in multiple areas provided that no more than 50 additional square feet may be added to any one residential unit. This would allow for the enlargement of a room, but not enough to create an additional bedroom or increase residential density. The Committee was supportive.

Frequency: Low Impact: Low

[Ref. NZO §28.25.060.D]

5. Nonconforming Open Yard

The current Zoning Ordinance does not offer any standards for allowing changes to residential properties that are nonconforming to the required open yard. Staff originally looked to amend the ordinance to allow a reduction of the open yard area with Director's approval. However it was determined that due to the individual case-by-case nature of open yard, a clear and easy ordinance solution was not feasible. Staff will be reviewing ways to administratively approve minor additions and alterations to properties that are nonconforming to the required open yard. The Committee was generally supportive while offering guidance to staff for further consideration. This approach will be presented more fully in Module 3.

Frequency: High Impact: Moderate

[Ref. To be included in Module 3: Administrative Procedures]

6. Substitution of Nonconforming Uses

The current Zoning Ordinance allows nonconforming uses to be replaced with other nonconforming uses of the same or more restrictive classification provided that the intensity of use is not increased. This provision can be difficult to administer because there are many conflicting ways to measure intensity of use. For example, a change of use from manufacturing to office could be seen as a de-intensification of use due to a reduction of odor/noise/dust/hazardous materials, but could also be seen as an intensification of use when

looking at traffic generation or off-street parking requirements. NZO proposes a new concept of *compatibility* for addressing nonconforming uses and the buildings that contain them without consideration of associated traffic or parking. Nonconforming uses would only be allowed to be replaced with conforming or compatible uses. The Community Development Director would make a determination of whether the existing or proposed use is compatible or incompatible with the zone, based on a list of factors such as: other uses allowed in the zone, noise, odors, hazardous materials, and other detrimental effects. The Committee was supportive.

Frequency: Low to Moderate Impact: Low

[Ref. SBMC §28.87.030.E, NZO §28.25.080]

7. Buildings Containing Nonconforming Uses

Buildings containing *compatible* nonconforming uses would now be allowed to be structurally altered or remodeled. Buildings containing incompatible uses would not be allowed to be structurally altered or remodeled; they would only be allowed to be repaired and maintained.

Frequency: Low Impact: Low

[Ref. SBMC §28.87.030.E, NZO §28.25.080]

8. New Definition of Demolition

NZO proposes a new definition of demolition in order to address instances in which almost an entire nonconforming building has been removed with only “one wall standing,” and is rebuilt to perpetuate either a nonconforming use or other nonconforming aspect of site development. Enforcement is difficult under the current ordinance. The proposed new definition would deem a structure to be demolished when two out of three structural elements (roof, walls and foundation) are more than fifty percent (50%) removed. The Committee was supportive.

Frequency: High Impact: High

[Ref. SBMC §28.87.030.D, NZO §28.25.030.G]

9. Replacement and Reconstruction of Nonconforming Nonresidential Buildings

The existing Zoning Ordinance allows planned or *voluntary* replacement of one hundred percent (100%) of any nonconforming building if the basic exterior characteristics are unchanged, the replacement complies with building height and a nonconforming use is not perpetuated. In contrast, the existing Zoning Ordinance limits nonconforming, nonresidential buildings damaged by a natural calamity (considered *involuntary*) to be restored only if the loss does not exceed seventy-five percent (75%) of the market value. If damage exceeds seventy-five percent (75%),

no repairs or reconstruction may occur unless every portion of the building conforms to current regulations. Although these are different circumstances, the overall concepts are in conflict.

Staff presented several options to the Committee and the majority favored changes that would remove the seventy-five percent (75%) market value limitation from the provisions for “involuntary” demolition. This would allow the reconstruction of damaged nonresidential buildings that are nonconforming to all standards including height and use. This change would also reconcile and align the voluntary and involuntary reconstruction provisions for nonconforming nonresidential buildings. Currently, damaged or destroyed *residential* buildings may be reconstructed with no parameter for percent of damage. The Committee was supportive.

Frequency: Low Impact: High (in the case of a large-scale disaster)

[Ref. SBMC §28.87.030.D.1.a. (5), SBMC §28.87.038, NZO §28.25.090.B. & C.]

C. Allowed Encroachments into Setbacks and Open Yards

The current Zoning Ordinance definitions of “Front Setback”, “Interior Setback” and “Yard” specify that they are to be *unoccupied and unobstructed from the ground upward*, except as otherwise provided. The current Zoning Ordinance allows encroachments into setbacks and open yards between two feet and three feet, depending on the nature of the structure or object. For simplicity, NZO proposes to unify that range and allow three foot encroachments into the front and interior setbacks and open yard for most improvements, with specific limitations, such as a minimum distance to any lot lines and maximum encroachments into certain areas.

[Ref. SBMC 28.04.620, SBMC §28.04.625, SBMC §28.87.062]

1. Encroachments-Porches

Staff views porches as an amenity that serves both on-site residents and the community. The current ordinance allows small (3’x3’) entrance landings, to encroach into any setback; this size however, does not accommodate typical front porches. For buildings existing at the time of ordinance adoption, NZO proposes to allow porches up to six feet wide and four feet deep (6-feet by 4-feet), to encroach into the front setback but, no closer than five feet to any front lot line. The Committee was supportive.

Frequency: Low Impact: Low

[Ref. SBMC §28.87.062.B.2 & 3, NZO §28.23.080.E.1.e]

2. Residential Front Yard Amenities

Items common to residential site development such as mailboxes, flag poles, fountains and benches, are technically prohibited by the current ordinance. NZO proposes to allow such items

in the required front setback only up to a maximum of 50 square feet or one percent (1%) of the required front setback, whichever is greater. The Committee was supportive.

Frequency: High Impact: Low

[Ref. SBMC §28.04.620, NZO §28.23.080.E.3.d]

3. Other New Elements

Some of the other new elements added to the list of allowed encroachments include: attached mechanical equipment such as tankless water heaters and meters, detached mechanical equipment for utilities such as transformers and backflow devices, electric vehicle supply equipment, rain barrels, planter beds, small arbors/trellises, trash enclosures, and restaurant furniture in commercial setbacks. The Committee was supportive.

Frequency: High Impact: Low

[Ref. NZO §28.23.080.E.2]

D. Open Yard and Outdoor Living Space Requirements

The current ordinance states that open yards are intended to provide usable outdoor living space and/or visual open space. Open Yard area requirements are currently addressed *by zone designation* for example, single-unit and two-unit residential zones are required to have a minimum 1,250 square feet of open yard with some exceptions. Multi-unit residential zones are required to provide either: 1. Private Outdoor Living Space, the size of which is dependent on the bedroom count and building story, with an additional on-grade Open Space component, and with four or more units a further requirement for a Common Open Area component; or 2. Common Outdoor Living Space. The variety and complexity of yard and outdoor space categories results in much confusion for applicants and some inequity in the yard requirements depending on the approach used and number of units. Initial attempts to provide clarification through reformatting of the existing code and revisions to make the various methods more equitable were deemed more cumbersome when vetted among staff.

NZO now proposes a different and simpler approach, with Open Yard requirements *based on number of units on the lot*. Proposed requirements are summarized below:

1. Open Yard required for lots developed with one or two units:

- Minimum Area: 1,250 square feet
- Minimum Area for small lots less than 4,000 square feet: 800 square feet
- Minimum Dimension: 20 feet long and 20 feet wide

Differences between current Zoning Ordinance and NZO:

One-Unit and Two-Unit zones: There are some minor differences for one and two unit development in the single-unit or the two-unit residential zones, These differences include a

smaller Open Yard area required for very small lots less than 4,000 square feet, and the ability to locate a portion of the open yard in the front yard for all lots, regardless of size.

Multi-Unit zones: The proposed changes will vary in the amount of open yard required for one- or two-unit development on *multi-unit zoned* lots depending on the lot size. On lots less than 4,000 square feet, the amount of open yard will be substantially the same, on larger lots 7,500 square feet or more, the amount of required open yard is actually reduced. Currently, one- or two-unit development on multi-unit zoned lots are only required to provide open yard per the Private or Common Outdoor Living Space requirements for multi-family development, which can lead to large unrestricted single unit development with very little open space. The reduced Open Yard exception for small lots may incentivize the creation of more units on multi-family zoned lots, which is a General Plan goal.

2. Lots developed with three or more units or mixed-use development:

- Minimum Area: 15% of the net lot area (including interior setbacks)
- Minimum Dimensions: 10 feet long and 10 feet wide
- Additional Private Open Yard: Consistent with current area and dimension requirements.

Differences between current Ordinance and NZO:

This is essentially a simplified hybrid of the current Private Outdoor Living Space and Common Outdoor Living Space methods. The new approach employs the 15% net lot area requirement from the Common Method, includes the Private Open Yards area requirement from the Private Method, and specifies a ten foot by ten foot (10' x 10') minimum dimension on the ground for usability. The option to use the Common Outdoor Living Space Method would be eliminated. The overall effect is that for developments with a large number of units, a comparable or slightly smaller open yard area is required in a manner that would provide flexibility to the designer and equitability for the residents.

Staff views this new approach as retaining the intent, providing more equity and eliminating unnecessary complexity. Although the majority of sites will actually see a reduction in the amount of required open yard, the change to the minimum dimensions will very likely result in a number of developments becoming nonconforming to open yard requirements. However, the administrative exception procedure (referenced above in Nonconforming Open Yard) will provide a process to address these circumstances generally at a staff level. This approach was developed after Module 2 was reviewed by the Joint Committee and comes to the Planning Commission without the Committee's technical input.

3. Lots developed with Average Unit Size Density (AUD)

Staff reviewed the current development incentives for the City's Average Unit Size Density (AUD) program and determined that the elimination of the 15% minimum area in commercial zones will result in an equal development incentive as the existing ordinance for AUD projects. Only Private Open Yard will still be required for AUD projects, and no changes are proposed to the current minimum dimensions for private open yards. Therefore, there will be no increase or

decrease to the open yard requirements for AUD projects. The AUD ordinance (SBMC §28.20) will be amended to reflect this change.

The Open Yard Area Comparison Table (Exhibit F) presents the current and proposed Open Yard requirements side by side.

Frequency: Very High Impact: Very High

[Ref. SBMC §28.15.060, SBMC §28.18.060, SBMC §28.21.081, NZO §28.23.090]

E. Other Ordinance Changes

1. Distance Between Residential Buildings on the Same Lot

The current Zoning Ordinance requires a minimum distance between main buildings and a minimum distance between main and accessory buildings in residential zones and on nonresidential zoned lots developed exclusively with residential uses. Distance separation standards vary from five feet (5') to twenty feet (20') depending on building type, zone and number of stories.

The requirement for a minimum distance between buildings was a common early form of zoning intended to provide light and air between buildings. It may also serve as a method of fire safety for buildings although today, the required fire-rated construction performs that task. Over time, additional zoning standards have been instituted such as required open yard, the solar access ordinance, and additional setbacks on upper stories, which serve much of the same purpose. In addition, design review boards review and approve all nonresidential development, mixed-use buildings and multi-unit development to address aesthetic concerns (mass, bulk, scale) and review the functionality of the site layout. NZO proposes removal of the various distance between building standards from the Zoning Ordinance to allow more sophisticated standards to regulate the desire for adequate light and air between buildings.

The Committee was split on this issue although a majority supported the removal of the separation requirements.

Frequency: High Impact: Moderate

[Ref: SBMC §28.04.010, §28.04.145, §28.15.070, §28.18.070, §28.20.070.E, §28.21.070, §28.27.050.B, §28.30.070, §28.36.070, §28.42.070, §28.54.070, §28.57.070, §28.63.070, §28.66.070, §28.69.070, §28.72.070, §28.73.070 §28.87.062.A & D.]

2. Elimination of Building Story Maximum

The current Zoning Ordinance limits both the maximum height and the maximum number of stories in multi-unit residential zones and nonresidential zones. Public comment suggested removal of the limit *on stories* while retaining maximum building height standards as a means of simplifying the Ordinance and addressing complications that arise when a basement constitutes

a building story. Several ordinance definitions regulate building height, therefore the removal of the maximum story limitation would not by itself have an impact on overall building height. The Committee supported elimination of the maximum buildings story standard while retaining existing height limitations.

Frequency: Moderate Impact: Low to Moderate

[Ref. SBMC §28.04.110, §28.04.140, §28.04.285, §28.04.310, §28.04.645]

3. Variability in Maximum Height, Setbacks, and Distance Between Buildings

In various Chapters, the current Zoning Ordinance requires variable calculations based on either building height, *combined* building height, or floor areas to determine the maximum height, setback, or distance between buildings. The result is that a modification is required in order to allow an otherwise *conforming* addition to a building simply because the existing building is already situated using a variable calculation. Generally, NZO proposes to eliminate the variable standards and instead replace those with a discrete distance or height. The Committee was supportive.

Frequency: Low Impact: Low

[Ref. (see following table)]

Zone(s)	Standard	Reference
Commercial & Office (all)	Maximum Height Adjacent to One- and Two-Unit Residential Zones	SBMC §28.48.050, §28.51.050, §28.54.050, §28.66.050
Commercial & Office O-R, O-M, C-R	Minimum Setbacks, Front	SBMC §28.48.060, §28.51.060, §28.54.050, NZO Table 28.05.030
Commercial & Office O-R, O-M	Minimum Setbacks, Interior, Adjacent to a Nonresidential Zone	SBMC §28.48.060.B, §28.51.060.B
Commercial & Office O-R, O-M	Minimum Setbacks, Interior, Adjacent to a Residential Zone	SBMC §28.48.060.C, §28.51.060.C
Manufacturing Zones M-C, M-I	Maximum Height Adjacent to One- and Two-Unit Residential Zones	SBMC §28.69.050.C, §28.72.050.C
Manufacturing Zones M-C, M-I	Minimum Setbacks, Interior, Adjacent to a Residential Zone	SBMC §28.69.060.C, §28.72.060.C
Planned Unit Development (PUD) & Planned Residential Development (PRD)	Variable Distance Between Buildings	SBMC §28.33.045 & §28.36.070

4. Multi-Unit Residential Zones: Parking Setback

In the R-2 Two-Unit residential zone, the interior setback requirement for parking is three feet (3'). In the *less restrictive* Multi-Unit residential zones (currently R-3 and R-4), the requirement is six feet (6'). NZO proposes to better align the parking setback standard by changing the six foot (6') setback to three feet (3') in the Multi-Unit residential zones *for smaller developments of up to a maximum of two residential units* which would be consistent with the allowance in the R-2 zone. The Committee was supportive.

Frequency: Moderate Impact: Moderate

[Ref. SBMC §28.18.060.B.2, SBMC §28.21.060.B.3, and NZO Table 28.04.030.B (under “Building Form and Location” section)]

5. Multi-Unit Residential Zones: Rear Setback

NZO proposes removal of the “rear” setback standard and replacement with the “interior” setback standard in the Multi-Unit zones. The removal of this distinction would change the setback distance for the second story of a building from ten feet (10') to six feet (6'). Since no other zones specify a “rear” setback, removal would simplify the standards. The Committee was supportive.

Frequency: Moderate Impact: Moderate

[Ref. SBMC §28.21.060.C]

III. MODULE 1: USE REGULATIONS – FOLLOW UP

1. Seafood Processing in M-C Manufacturing-Commercial Zone (currently C-M Zone)

This issue has come about in response to neighborhood complaints about an existing fish processing operation in the C-M zone. *Food products manufacturing* is identified in the existing ordinance as an allowed use within the Commercial-Manufacturing (C-M) zone and for many years, it has been staff's practice to allow meat and fish processing under that category. However, the allowed uses in certain coastal zones were created to explicitly identify “seafood processing” as an allowed use. The City Attorney has determined that because “seafood processing” is not specifically listed in the C-M zone, it has inadvertently become a disallowed use.

Members of the public have supplied correspondence or attended public meetings to express their position that fish processing is an inappropriate use in the C-M zone, and the Committee concurred, directing changes to be made *in Module #1: Use Regulations*. The Committee also affirmed that seafood processing would continue to be an allowed use in the Manufacturing-Industrial (M-I) zone (currently M-1), the City's least restrictive zone. The migrating nature of odor was acknowledged and the Committee recommended that staff consider methods to limit

odorous effects on properties not just abutting the site but also, in the general area. NZO proposes the following: 1) prohibition of fish processing in the Manufacturing-Commercial (M-C) zone, 2) a requirement for a Performance Standard Permit (PSP) for Seafood Processing in all zones, and 3) require applicants to submit an odor control plan for all seafood operations, including accessory seafood uses (to be reflected as changes in Module 1 and discussed in Module 3).

Frequency: Very Low Impact: Very High

[Ref. SBMC §28.69.030, SBMC §28.70.030.A.3, SBMC §28.71.020.1.h, SBMC §28.73.030.A.5, Forthcoming changes to Module 1: Use Regulations, NZO Ch.28.06]

2. Mobile Food Trucks

Currently, mobile food vendors on *private property* are prohibited, as they are classified as peddlers and regulated under the City's Peddlers Ordinance (SBMC Chapter 5.32). NZO has proposed to allow that use with some restrictions, and both the Joint Committee and Planning Commission expressed support for the allowances for this use presented in Module 1. The NZO *private property* provisions from Module 1 were subsequently presented in a public workshop on December 3, 2015 held in association with the City Attorney's draft ordinance presentation for mobile food trucks *in the right of way*. After hearing input on the NZO provisions for mobile vendors *on private property*, NZO proposes extending the on-site time limitation from 3 hours to 4 hours. Longer hours or additional trucks may be requested through application for a Temporary Use Permit, to be detailed further in *Module 3: Administrative Procedures*.

The provisions in NZO allowing mobile food vendors to operate in all zones of the City were created because mobile food vendors are seen as providing a beneficial service, especially where work shifts begin or end during late hours, or where eating opportunities are not available nearby to a work place or public gathering. During the public workshop, the question was raised whether non-food items would be allowed for sale under the ordinance provisions. Mobile vending of non-food items is not viewed by staff as a necessity that requires accommodation on *private property* and therefore is not included in the NZO proposal. For the reasons noted above, and because State law allows mobile vending of food *and non-food items* in the right of way adjacent to private property, staff recommends limiting allowances for mobile vending on private property to food sales.

[Ref. NZO Module 1 and Module 3 (forthcoming)]

3. Accessory Uses in the Manufacturing-Industrial Zone (M-I)

As part of the review of *Module 1: Use Regulations*, NZO proposed the removal of some uses including restaurants, retail, and office uses in the Manufacturing-Industrial M-I zone. Concerns were expressed by the public and Commission at the public workshop on June 25, 2015 that such a change could adversely affect large operations that benefit the community. Marborg Industries was cited as an example that has stand-alone offices serving numerous off-site industrial

operations within the zone/vicinity. To address this, the “Public Works and Utilities” use definition in Module 1 will be revised to now include “associated offices.”

NZO also proposed removal of Food and Beverage Retail Sales from the M-I zone. However, the Committee was supportive of retaining smaller food related retail such as delicatessens. NZO now proposes to return Food and Beverage Retail Sales as an allowed land use in the M-I zone with a restriction limiting their size to 3,000 square feet, the equivalent of a Growth Management Plan Small Addition.

To ensure that this use and others with accessory components do not exploit the intent, the definition of “Accessory Uses” in Module 1 will include size limitations shown in the table below and will clarify that accessory uses are conforming uses. This would also serve to capture Marborg as a conforming use.

Aggregate Area of Allowed Use	Maximum Percentage of Accessory Use
Less than 1,000 sq. ft.	25%
1,000 – 3,000 sq. ft.	20%
Over 3,000 sq. ft.	10%

Module 3 will reflect the requirement for a performance standard permit (PSP) to allow any other accessory uses that exceed the size limitations above.

Frequency: Low-Moderate Impact: Low

[Ref. SBMC §28.72.030, NZO Module 1 and Module 3 (forthcoming)]

IV. NEXT STEPS AND TIMELINE

The Planning Commission’s direction will be incorporated into the draft NZO. The next step will be the preparation and review of Module #3: Administrative Procedures, which will analyze existing administrative procedures to identify opportunities for streamlining, consolidate and update definitions and rules of measurement to use plain language and be consistent with definitions of other sections of the Municipal Code and Building Code, and bring forward the off-street parking and loading requirements that were initially planned for inclusion in Module #2.

The website developed for this effort and can be found at www.SantaBarbaraCA.gov/NZO. The website includes information on upcoming meetings, reference materials associated with standards being reviewed, and an area to provide public comment. For a more complete list of Module #3 topics, see Section A.1, 2, 3 and 7 of the document titled “Zoning Standards to be Considered in the NZO Work Effort” and also see Task 6 of the document titled “Scope of Work.” Both documents (and more) can be found on the Reference Documents page at the NZO website.

Upcoming schedule:

NZO Joint Committee draft Module #3 Review	May 2016
Planning Commission draft Module #3 Review & Public Workshop	July 2016

Staff encourages any public member that wishes to be noticed of future meetings associated with this effort to register on the NZO website.

Exhibits:

- A. NZO Joint Committee Staff Report, Draft Module 2, November 11, 2015, Attachments 3-5
- B. NZO Module 2 Joint Committee Meeting Staff Notes, December 7, 2015
- C. NZO Module 2 Joint Committee Meeting Staff Notes, December 14, 2015
- D. NZO Revised Draft Module 2, dated February 29, 2016
- E. Effects of 1975 Rezoning – Setback Standards
- F. Table: Open Yard Area Comparison
- G. Public Comments Received



City of Santa Barbara
Community Development Department

NZO JOINT COMMITTEE STAFF REPORT

DATE: November 11, 2015

TO: New Zoning Ordinance (NZO) Joint Committee

FROM: Planning Division, (805) 564-5470
Danny Kato, Senior Planner *RLB for DK*
Marck Aguilar, Project Planner *MA*

SUBJECT: Draft Module #2: Development Standards

The purpose of the New Zoning Ordinance (NZO) Joint Committee and subsequent Community/Planning Commission review of the modules is for education and informal comment on choices being considered. The comments received on the modules will be used to inform and prepare the Administrative Draft Zoning Ordinance in late spring of next year. Enclosed please find the second "module" of the New Zoning Ordinance (NZO) effort which would regulate development in the City.

Module 2: Development Standards (Attachment 1) is comprised of three "development standard" components: 1) base zone development standards; 2) overlay zones; and 3) citywide development standards. Similar to the first module (*Use Regulations*), tables are used to present information simply and clearly and although not yet developed, diagrams will be included for some standards.

What's Changing?

Much of the existing Zoning Ordinance content remains the same but, has been reorganized. With the NZO, types of changes include the following:

- No change to content, just wording, formatting or location within the Ordinance;
- Content change for ease of use, while maintaining the intent; and
- New or changed content affecting development.

The items in the first and second bullets are not discussed in this staff report. Some of the items in the third bullet are included for discussion, while others are listed in Attachment 2, because they are codifications of existing policies or administrative procedures, or are otherwise not controversial. Because of the extensive reformatting, editing, and location changes throughout the document, Module 2 does not lend itself to a readable "redline and strikeout font" presentation. We recommend that the reader approach Module 2 comprehensively and in its entirety, and augmented with the Draft

Module #1: Use Regulations. References (e.g. “[Ref.]”) to the existing Santa Barbara Municipal Code Zoning Ordinance and proposed NZO sections are provided to aid the reader. Off-street parking and loading requirements were anticipated for inclusion with Module 2 (proposed Chapter 28.26) however, these development standards will be addressed with Module #3.

On Monday, December 7, Martha Miller of Dyett & Bhatia will give an overview of the Draft Module 2 document that will be subsequently discussed at Community/Planning Commission Work sessions in early 2016.

Discussion Items

1. Residential Unit Standards, Size and Limitations

General Plan Policy Housing Opportunities Policy:

- H14. Sustainable Housing. Ensure that new market-rate residential development is consistent with the City’s sustainability goal, including reduced energy and resource use, and increased affordable housing opportunities.

Possible Implementation Actions to be Considered

- H14.3 Market-Rate Incentives. Prepare design standards and codify incentives for market rate developers to build smaller, “affordable-by-design” residential units that better meet the needs of our community.

Minimum Unit Size

The minimum residential unit size currently allowed is 400 square feet of usable floor area (SBMC 29.87.150). However, there is an exception for Affordable Efficiency Dwelling Units for projects constructed or operated by a nonprofit or governmental agency providing housing at an “Affordable Housing Cost” to “Lower Income Households.” The City may permit these efficiency units down to a minimum of 150 square feet of usable floor area for occupancy by no more than two persons who qualify by income. In 2004, the California Building Code was amended to change minimum size requirements for Affordable Efficiency Units from 150 square feet to 220 square feet. However, the Zoning Ordinance was not amended to reflect this change at the same time.

With a growing interest in small and tiny houses (generally characterized as 400-1,000 square feet and less than 400 square feet respectively), NZO is proposing to reduce the required minimum usable floor area size for a studio unit to 220 square feet of livable floor area, the minimum size required by the building code. There would be no requirement for construction or operation by a governmental agency or nonprofit. For units with one or more bedrooms, the minimum unit size of 400 square feet of livable floor area would remain.

A reduction in minimum unit size for studio units from 400 square feet to 220 square feet would not result in increased residential base density calculations because a smaller studio unit would still be counted as one unit. The City's Average Unit Size Density program (AUD) regulates density by maximum unit size, not minimum size. As with the AUD now, a single, "large" unit could be accommodated through averaging the floor area of all units proposed on site. The difference being that units of 220 square feet rather than 400 square feet might be used.

Limitations

Concerns about floor plan configurations leading to illegal dwelling units were addressed in the November 2, 2001 Planning Commission staff report on the subject of "Configuration of Residential Units" (Attachment 3). The NZO includes a proposal to incorporate a new subsection identifying *Limitations* of floor plan configurations consistent with the policies in that staff report. Elements considered in the determination of a "residential unit" have been updated. Requests for additional amenities would be considered through a Performance Standard Permit (to be further described in *NZO Module #3: Administrative Procedures*) as a means of balancing concerns about conversion to illegal dwelling units and the flexibility to allow enhancements.

[Ref: NZO §28.23.110.A-D]

Question:

1. Is reduction from 400 square feet to 220 square feet acceptable for market rate studio units?

2. Accessory Buildings, Configuration and Attachment

Detached Guestrooms

Concerns about floor plan configurations leading to illegal dwelling units were addressed in the Planning Commission staff report referenced above. Policies that emerged from that dialogue and which have been implemented by Planning staff are now proposed for codification in the NZO. Detached guestrooms would not be allowed to include indoor bathing facilities, more than one sink, or cooking facilities. As in the Residential Unit discussion above, requests for additional amenities would be considered through a Performance Standard Permit (to be further described in *NZO Module #3: Administrative Procedures*) as a means of balancing concerns about conversion to illegal dwelling units and the flexibility to allow enhancements.

[Ref: NZO §28.23.020.G, NZO §28.23.110.E]

Building Attachment

The current ordinance specifies that when an accessory building is attached to and made a part of a main building, not less than eight feet in length of one wall or roof be made integral to the main building. However, the requirement also allows accessory building attachment of less than eight feet provided that that shorter length wall connection is one hundred percent integrated into the main building. The existing ordinance definition is problematic for several reasons: 1. The allowance for shorter walls and roofs can be exploited resulting in unconventional building configurations, such as buildings connected by a long narrow hallway or awkwardly extended roof eaves; 2. The current definition only applies to the attachment between main buildings and accessory buildings, and is silent on the minimum connection required between multiple main buildings or mixed use buildings; 3. The current definition excludes a description of the obvious floor to ceiling connection most common on multi-story buildings.

A revised and bolstered definition of building attachment for enclosed structures is proposed in the NZO that still retains the eight foot requirement but now requires it in both vertical and horizontal dimensions for shared walls, and requires a minimum 8'x8' area for floor to ceiling connections. The definition would now also recognize a shared interior connection of seven feet in vertical and horizontal dimensions.

Building attachment requirements would now specifically address unenclosed buildings or structures without floor-to-ceiling walls, such as carports and patio covers. Such structures would be considered attached when sharing at least eight feet of solid roof connection. Unenclosed structures, such as carports and patio covers, may not be used to attach two enclosed buildings or structures.

Currently, accessory buildings must be either attached to a main building or separated by a minimum of five feet. If the minimum distance between buildings requirement is removed in NZO as proposed, the minimum building attachment is still necessary to regulate all the other standards that apply to accessory buildings, multi-unit development and mixed use buildings. For example, the proposed ordinance language would address applications where accessory buildings, other than garages, are proposed in the front yard, or where accessory space beyond the allowed 500 square-foot maximum is proposed and are portrayed as portions of the main building through a tenuous connection in an attempt to sidestep limitations. Similarly, the minimum connection required for Mixed-Use Buildings has been clarified in order to ensure that commercial and residential buildings are substantially connected, which allows the residential portions of mixed use development to be exempt from required setbacks in commercial zones.

[Ref: SBMC §28.04.010, SBMC §28.87.160, NZO §28.23.030]

Questions:

- 2a. Does the Committee support the codification of limitations on detached guestrooms that have been applied since 2001?
- 2b. Does the Committee support the proposed building attachment requirements as presented in NZO §28.23.030?

3. Accessory Buildings and Garages, Floor Area

The existing zoning ordinance limits accessory buildings to a total aggregate floor area of 500 square feet. Garages are also limited to 500 total aggregate square feet with the exception that lots in excess of 20,000 square feet and lots zoned A-1 or A-2 Single Unit Residential may have up to 750 square feet in total aggregate floor area. Therefore, the total combined amount of garage plus accessory space on any one lot is either 1,000 sq. ft. (for lots less than 20,000 sq. ft.) or 1,250 sq. ft. (for lots over 20,000 sq. ft.).

Public input suggested that the NZO explore a greater range for maximum accessory buildings and garages on larger lots. Staff routinely supports Zoning Modifications on large lots for accessory buildings to be used as horse barns, or recreational vehicle (RV), or boat storage. The current maximum of 500 sq. ft. is inadequate to accommodate these uses. Accessory buildings are intended to be subordinate to the main building, the use of which is incidental to the main building. Therefore, NZO proposes both a maximum *aggregate* building size and a maximum *individual* building size so that accessory buildings do not have the same appearance or use as a main building.

Table: Accessory Buildings and Garages				
	<20,000 s.f.	20k s.f. – 1 Ac	1 Ac – 3 Ac	3+ Ac
Garage				
<i>Existing</i>	500 s.f.	750 s.f.	750 s.f.	750 s.f.
<i>Proposed</i>	No Change	No Change	1,000 s.f. total, with 750 s.f. max. in a single building	1,250 s.f. total, with 750 s.f. max. in a single building
Accessory Building				
<i>Existing</i>	500 s.f.	500 s.f.	500 s.f.	500 s.f.
<i>Proposed</i>	No Change	750 s.f.	1,000 s.f. total, with 750 s.f. max. in a single building	1,250 s.f. total, with 750 s.f. max. in a single building
Max Size of Combined Garage/Accessory in a Single Building				
<i>Existing</i>	1,000 s.f.	1,250 s.f.	1,250 s.f.	1,250 s.f.
<i>Proposed</i>	No Change	No Change	No Change	1,500 s.f.
Max Total Garage + Accessory On-Site				
<i>Existing</i>	1,000 s.f.	1,250 s.f.	1,250 s.f.	1,250 s.f.
<i>Proposed</i>	No Change	1,500 s.f.	2,000 s.f.	2,500 s.f.

Note: Minimum lot areas required for creation of new lots in the A-1 and A-2 zones are 43,560 square feet (one acre) and 25,000 square feet, respectively.

[Ref. SBMC §28.87.160, NZO §28.23.020]

Questions:

3a. Generally, are increases to maximum aggregate floor areas for accessory buildings and garages on larger lots supportable? If so, are the proposed sizes supported?

3b. Should there be a limit on the maximum amount of habitable space in a detached accessory building (e.g., detached guest rooms)? If so, what size?

4. Nonconforming Uses, Structures and Site Development

The existing regulations governing nonconforming buildings and uses are located under General Provisions Chapter 28.87. The NZO incorporates the existing standards in a new Chapter entitled: Nonconforming Uses, Structures and Site Development. While many of the existing regulations governing non-conforming buildings and uses have been incorporated into this new chapter there are also significant changes proposed. In particular, the current ordinance regulations are primarily focused on alterations allowed to buildings nonconforming to the required setbacks, density, and use. This new chapter includes several other categories of nonconformities (Open Yard, Floor to Lot Area Ratio, Garages and Carports) as well as incorporating details from other existing ordinances such as Fences, Screens, Walls and Hedges. The new Chapter also includes new purpose statements and a revised section on substitutions to nonconforming uses.

Alterations and Remodels to Nonconforming Structures in Setbacks

Currently, the existing ordinance allows nonconforming buildings to be maintained, improved, and altered only if there is no change of use, and no change to the basic exterior characteristics or appearance of the building or structure. The only exterior changes that are currently allowed are described in SBMC §28.87.030.D.1.b as follows:

- The replacement of exterior wall coverings with the same or different materials;
- The replacement of roofing materials with the same or different materials, except those that require an increase in roof pitch;
- Reduction in the number or size of window or door openings;
- Replacement of existing windows or doors where there is no increase in opening size, or changes in the location of the windows or doors.

This existing language in SBMC §28.87.030.D.1.a regarding “change of use” and “no change to the basic exterior characteristics” is vague and can be interpreted subjectively. In addition, the allowed exterior alterations are viewed as overly restrictive.

The NZO proposes to allow *any* interior and exterior remodel to portions of existing buildings that are non-conforming to the setback, subject to six new provisions (that fall into four categories). These new provisions clarify what is meant by a “change of use” and restrict only those elements considered to be an intensification in the setbacks: increased height, door and window openings, and new enclosed areas in the setback.

- **Change of Use.** The first three provisions clarify what is meant by a “change of use” in the setback: 1) no change of use from residential to nonresidential or vice versa; 2) no increase in the number of residential units in the setback (e.g. single unit converted to a duplex); and 3) garages may be converted to carports, and vice versa, but still may not be converted to other uses such as storage or bedrooms.

These three items conform to existing Planning Staff policy on *intensification* of use in the setback. The reason why NZO limits the conversion of garages and carports to other uses such as storage or bedrooms is that garages currently and historically have different setbacks and development standards than main buildings in the ordinance. This provision is designed to preclude a project from permitting one or more garages on a lot with a reduced setback, only to come in after the fact with a proposal to convert those garages to living space without a Zoning Modification.

- **Height.** NZO would allow an increase of up to 42-inches in height in the setback provided that it would not result in an additional story or increase in floor area within the setback. This amendment would address frequent requests to change a flat roof to a pitched roof. Raising a flat roof of a conforming-to-size, two-car garage (21-feet x 21-feet presuming one-foot eaves all around) to a standard 4:12 slope, would result in a central ridge 42-inches higher. If the peak is parallel to the interior property line, the height increase within the setback would be minimal. Oriented perpendicular to the property line, the maximum height increase would be 42-inches.
- **Doors and Windows.** NZO would allow any new or relocated doors and windows in the setback, as long as the new doors and windows are located a minimum of five feet (5') from the property line, and only on the ground floor. Upper level doors or windows are not permitted. Five (5') feet was selected as the minimum distance because as the smallest minimum interior setback in the zoning ordinance, (RS-6 zone/current R-1 zone), it represents the minimum standard to meet the purpose and intent of the setback. Five feet (5') is also the pre-1973 setback in the R-2 and R-3/R-4 zones before it was changed to 6'.
- **Enclosed Areas/Additional Floor Area.** The existing ordinance does not provide clear direction on whether or not additional floor area may be provided

within the setbacks when that new floor area is within the existing building form or footprint. For example, if an existing residence is nonconforming to a setback, and a crawlspace, understory, or attic is remodeled to create new useable space, it has been Planning staff's policy to allow it, provided there are no exterior changes for the "addition." This will still be allowed in NZO, however the provision clarifies that no *unenclosed* area (such as a porch or deck) shall be enclosed to create additional floor area in the setback.

[Ref. SBMC §28.87.030.D.1.a. & b., NZO §28.25.050.D]

Additions to Nonconforming Structures in Setbacks

Both the current ordinance and NZO allow conforming additions (located outside the setbacks) to nonconforming buildings without a Zoning Modification. NZO proposes to also allow some minor additions to be located *within* the interior setbacks without a Zoning Modification. Where a *ground floor* portion of a building is nonconforming because it encroaches into an *interior setback*, the NZO proposes to allow a *ground floor* addition *within the interior setback* of an amount equal to or less than the area that already encroaches into the interior setback. New construction must maintain a distance from the interior property line to the closest point of the existing building or five feet (5'), whichever is *greater*. This language is similar to a current allowance in the R-2 Two Family Residence zone, which currently allows ground level additions to buildings constructed five feet (5') from the interior property line if the addition would be no closer than five feet (5') to the interior property line.

The general intent is to allow a small amount of relief where interior setbacks have been increased after rezoning and larger setbacks implemented. This would allow limited development to continue along a uniform plane of an existing wall without triggering a modification review process or, result in the need to "jog" the plane of an existing wall to conform. The height of the new structure located within the setback shall not be greater than the height of the existing building located within the setback.

Since additions are proposed to be allowed to be constructed within the setback, NZO proposes that additions to nonconforming buildings may not be combined with a voluntary demolition and reconstruction of the nonconforming building or structure. The intent of allowing additions to nonconforming buildings is to allow the right to continue, repair, and maintain an existing building. The NZO requires that if the existing building is demolished, the replacement building should either be the same size and in the same footprint as the old building, or conform to current regulations, without further review.

The "baseline" for determining the amount of "existing" building area that encroaches into the setback will be that which exists at the time of NZO adoption in order to prevent multiple additions. As proposed, applicability would be in all zones; however,

discussion is invited on whether this should be limited to specific zones (e.g. Two-Unit and Multi-Unit zones); specific site circumstances (e.g. maximum floor area or building orientation relative to the adjacent property line); or use type (residence or accessory building). Consideration might also be given to whether additions to nonconforming structures in setbacks might be subject to an administrative exception process.

[Ref. SBMC §28.18.065.C, NZO §28.25.050.D]

Nonconforming Garages and Carports Expansion

Garages and carports that are nonconforming to the required minimum interior dimensions and which are also nonconforming to either front or interior setbacks, may be expanded, demolished or rebuilt provided that the number of parking spaces is not increased and that the garage/carport will not exceed the required minimum dimensions. The intent of this change is to allow increases to covered parking, to the minimum degree required for functionality.

[Ref. NZO §28.25.050.F]

Nonconforming Open Yard

Open yards in single-unit and two-unit residential zones are required to be a minimum 1,250 square feet, located outside of the front yard and have 20-foot by 20-foot minimum dimensions. When the Open Yard standards are not met, it can prevent additional development on site. However, it has been the administrative practice for Planning staff to evaluate on a case by case basis whether the intent of the requirement is being met, even if not technically. An example would be an open yard with dimensions of 18-feet by 23-feet; while not meeting the dimension standard, such an area would satisfy the minimum square footage requirement and generally meet the functional intent.

The NZO proposes to implement standards for nonconforming open yards that will allow some minor ground level additions without triggering the requirement for a Zoning Modification. In the RS Single Family Zone and R-2 Two-Unit Residential Zone, NZO will allow additions and alterations to be made if at least 1,000 square feet is provided and has a minimum 10-foot dimension.

Nonconforming Residential Density - 250 Square Foot Allowance

For properties with nonconforming residential density, the existing ordinance prohibits any alterations that result in any of the following: 1. Increase in residential density; 2. increase of floor area of any main or accessory building on the lot (excluding garages

and carports); and 3. Increase of the amount of habitable space. This limitation requires a Zoning Modification in order to permit minor improvements, such as enclosed storage and laundry rooms, which are generally supported by Staff.

The NZO proposes a new allowance for a *one-time* addition of up to 250 square feet for use as an area that serves all units on site such as a laundry room, or in multiple areas with the limitation that no more than 50 additional square feet may be added to any one residential unit. This might allow the addition of a closet or slight enlargement of a room but, not enough to create an additional bedroom and increase residential density.

[Ref. NZO §28.25.050.C]

Demolition and Replacement of Nonconforming Buildings

Demolition and replacement of nonconforming buildings is allowed by the current ordinance provided that: 1. the basic exterior characteristics are not changed, 2. applicable height and building story limitations are met, and 3. the demolition and replacement of the nonconforming building or structures does not continue or perpetuate a nonconforming use.

The demolition and replacement of a nonconforming building is still allowed by NZO, however more detailed conditions are provided that take the place of the subjective phrase “the basic exterior characteristics of the replacement building or structure is not changed” and focus more on the zoning standards that are of concern. For example, the replacement building shall be in the same building footprint and location on the lot, the net square footage of the existing building shall not exceed the existing, the number of dwelling units shall not be greater, the new structure shall not exceed the height of the existing building, the setbacks, number of parking spaces, and open yard shall not be reduced, and an addition shall not be combined with a demolition and replacement. The existing limitations on height and nonconforming uses shall remain.

New Definition of Demolition

Planning staff is often confronted with instances in which almost the entirety of a nonconforming building has been removed with “one wall standing” and it is rebuilt to perpetuate a nonconforming use or other nonconformity such as parking, open yard, or building height. However, because a minor portion remains, the major remodel effectively “refreshes” the building and perpetuates the nonconformity. Lack of strong language or a definition of “demolition” in the Zoning Ordinance or in the building code makes enforcement difficult.

A new definition is proposed in the NZO that specifies when two out of the three structural elements of a building (roof, walls, and foundation) are proposed to be

demolished by more than 50%, the result would be a determination that the nonconforming structure is effectively demolished. Also, verification must be provided by the property owner and contractor prior to permit issuance attesting that the building is structurally sound and that they are aware of the limitations and penalties of an unlawful demolition.

[Ref. SBMC §28.87.030.D, NZO §28.25.060.A]

Substitution of Nonconforming Uses

If no structural alterations are made, the current ordinance allows buildings containing a nonconforming use to be altered, remodeled, or changed to another nonconforming use of the same or more restrictive classification. The NZO also proposes to allow substitutions of nonconforming uses with other nonconforming uses, however the new use depends on whether the existing nonconforming use is determined to be *compatible* or *incompatible* with the surrounding uses.

- Existing buildings with *compatible* nonconforming uses, may be altered or remodeled; and replaced with other compatible nonconforming uses or conforming uses.
- Existing buildings with *incompatible* uses, may be maintained and repaired, but not structurally altered; and incompatible nonconforming uses shall only be replaced with compatible or conforming uses.

The determination of what is considered *compatible* or *incompatible* rests with the Community Development Director and is based on a list of factors stated in the new ordinance such as the zone, parking, traffic, noise, and odors.

Questions:

- 4a. Is allowing up to a 42-inch increase in height in the interior setback, with the related limitations acceptable? Should more, less or no height increase be considered?
- 4b. Should new or relocated doors and windows be allowed up to five feet from the interior property line on the first floor of existing buildings?
- 4c. Should NZO allow additions to nonconforming buildings:
- *Within* the interior setbacks?
 - In all zones or limit to Multi-Unit zones, the Two-Unit zone or Nonresidential zones?
 - Through an administrative exception process?
 - With Design Review approval?
 - With additional development standards?

4d. Are the standards for substitution of nonconforming uses acceptable?

5. Reconstruction of Nonconforming Nonresidential Buildings

When a nonconforming, *nonresidential* building or structure is damaged by fire, flood, wind, earthquake or other calamity and not more than seventy-five percent (75%) of its market value was lost, the existing ordinance allows restoration and resumption of use. If however, damage exceeds seventy-five percent (75%), no repairs or reconstruction shall be made unless every portion of such building is made to conform to all regulations for new buildings in the zone in which it is located.

In 1998 an ordinance section was created that allows voluntary replacement of one hundred percent (100%) of any nonconforming building provided that the basic, exterior characteristics of the replacement are not changed; the replacement complies with building height and story limitations; and a *nonconforming use* is not perpetuated.

While these two ordinance sections do not address exactly the same circumstances: one is the involuntary replacement due to calamity regardless of use, while the other is voluntary and limited to conforming uses, the overall concepts are in conflict. In order to resolve this conflict, the NZO could be revised in several ways:

1. Revise the “involuntary replacement” section so that there is no 75% market value limitation. This would allow the reconstruction of nonresidential buildings that are nonconforming to all standards, *including* height, stories, and use, to be reconstructed 100% back to their original state after a fire or flood, etc.
2. Revise the “involuntary replacement” section so that buildings damaged less than 75% can rebuild all nonconformities *including* height, stories, and use. Buildings damaged more than 75% can rebuild all nonconformities *except* for height, stories, and use. This solution resolves the conflict, while keeping relatively the same intent as the existing ordinance.
3. Revise the “voluntary replacement” section to include a maximum replacement of 75% of the market value. This would only allow nonconforming, nonresidential buildings to voluntarily demolish and reconstruct up to 75% of the market value of the building without bringing it up to current zoning standards.

It should be noted that damaged or destroyed nonconforming *residential* buildings may be resumed or reconstructed with no limitation on the percent of damage, therefore the same conflict does not exist on nonconforming *residential* development.

[Ref. SBMC §28.87.030.D.5 and §28.87.038]

Questions:

5a. Shall these ordinance sections be revised to offer a more consistent approach?

5b. If revision is supported, which approach is preferred?

6. Distance Between Buildings on the Same Lot

A minimum distance between main buildings (residential units) and accessory buildings (garages, detached guestrooms, sheds, etc.) is currently required in residential zones and on lots developed exclusively with residential uses. For main building separation, required minimum distances range from 10 feet or 15 feet in the Two-Unit and Multi-Unit zones, depending on the number of stories, to 20 feet in Single-Unit Zones. In nonresidential zones, separation of residential buildings and portions thereof, are subject to the requirements of the Multi-Unit zones. The minimum distance required between accessory buildings and main buildings is five feet. In the Planned Unit Development (PUD) Zone, determining the required distance between buildings is particularly cumbersome, involving a calculation based on a combination of neighboring building heights and whether walls of adjacent buildings face each other. The ordinance language is as follows:

Distance Between Buildings in the Planned Unit Development (PUD) Zone

28.36.070 *No building containing dwelling units shall be located closer to the opposing walls of another building containing dwelling units on the property than one-half (1/2) the sum of the heights of both such buildings, provided however that such distance between buildings shall in no case be required to exceed one hundred feet (100'). The distance between two (2) such adjacent buildings so located that the walls of one (1) building do not face the walls of another building shall be not less than fifteen feet (15').*

For *nonresidential* buildings, the current zoning ordinance does not require a minimum building separation, although they are subject to Building/Fire code regulations. Without a requirement for distance between buildings, development design for nonresidential and Mixed-Use buildings has still continued in acceptable manner, perhaps due to design board/commission review which is required on all non-residential, mixed-use and multi-unit development.

The current ordinance requires the minimum distance between buildings to remain unobstructed from the ground, upward. The purpose is to create visual separation and openness into the development while also indirectly limiting site development. Existing zoning and design review requirements already provide adequate development standards to meet the same intent. The required setbacks provide the necessary

buffer between neighboring land uses and the required open yard area provides adequate openness and useful outdoor space. The minimum distance between buildings is an outdated standard best addressed by the design review boards whose task is to approve the location and placement including size bulk and scale of multiple main buildings on a lot.

[Ref: SBMC §28.04.010, §28.04.145, §28.15.070, §28.18.070, §28.18.070.E, §28.21.070, §28.36.070, §28.87.062.A & D., §28.72.070, NZO §28.23.110.A-D and NZO Table 28.06.030]

Questions:

6a. Shall minimum distance requirements between main buildings and other main buildings, and between main buildings and accessory buildings continue to be required for zoning purposes?

If minimum distance requirements are desired, staff would recommend that the variable calculation approaches in various zones be replaced instead with specific distances.

6b. Shall the PUD zone continue to specify distances between buildings?

If so, staff would recommend a specific distance rather than a variable calculation.

7. Height and Setback Changes for Nonresidential Buildings Adjacent to Residential Zones and Third Story Setbacks in Multi-Unit Zones

Variability in Maximum Heights and Minimum Setbacks

In various Chapters, the current zoning ordinance requires calculations based on building heights or floor areas to determine allowed maximum height or setback distance. In an effort to improve predictability for users, the NZO proposes to replace those variable determinations with constants that reflects a conservative average. Three specific examples are illustrated below.

Example 1: Height

The existing standards for Commercial Zones (R-O, C-O, C-P and C-2) limit building height on lots adjacent to residential zones through a calculation:

28.48.050 Building Height.

Three (3) stories and not to exceed forty-five feet (45'). Building height immediately adjacent to a residential zone(s) shall not exceed that allowed in the most restrictive adjacent residential zone for that part of the

structure constructed within a distance of twenty-three (23) feet or one-half (1/2) the height of the proposed structure, whichever is less.

In this particular instance, the NZO proposes instead a more forthright approach by limiting maximum building height to 30 feet if the proposed structure (or portion) would be within 20 feet of a one- or two-unit residential zone – to ensure adjacent building compatibility and preservation of light and air that was intended. Beyond the 20-foot proximity to those residential zones, the maximum building height would revert to 45 feet. This restriction would not apply to Community Benefit or Community Benefit Housing projects designated by City Council.

Example 2: Setbacks

The existing standards for Commercial Zones (R-O, C-O, C-P and C-2) require additional setbacks based on proximity to adjacent residential zoning through a calculation: 10 feet or $\frac{1}{2}$ the building height, whichever is greater.

The NZO proposes to use a standard setback distance (15') rather than a variable amount based on building height to ease the calculation, and to allow existing buildings to propose upper story additions without triggering a setback modification. For example, if a nonresidential building, 20' in height, is constructed 10' from the property line adjoining a residential zone, it meets the current $\frac{1}{2}$ the building height setback limitation. However, if a future addition was proposed that increased the building height by one foot, the new setback requirement would be 10'-6" ($21' \div 2$), and, and even if the proposed addition was located more than 10'-6" from the lot line, a setback modification would be required for the existing portion of the building that was conforming to the setbacks when it was constructed.

A similar approach, replacing a variable with a constant, is proposed for the following development standards:

Zone(s)	Standard	Reference
Commercial & Office (all)	Maximum Height Adjacent to One- and Two-Unit Residential Zones	SBMC §28.48.050, §28.51.050, §28.54.050, §28.66.050
Commercial & Office O-R, O-M, C-R	Minimum Setbacks, Front	SBMC §28.48.060, §28.51.060, §28.54.050, NZO Table 28.05.030
Commercial & Office O-R, O-M	Minimum Setbacks, Interior, Adjacent to a Nonresidential Zone	SBMC §28.48.060.B, §28.51.060.B
Commercial & Office O-R, O-M	Minimum Setbacks, Interior, Adjacent to a Residential Zone	SBMC §28.48.060.C, §28.51.060.C

Manufacturing Zones M-C, M-I	Maximum Height Adjacent to One- and Two-Unit Residential Zones	SBMC §28.69.050.C, §28.72.050.C
Manufacturing Zones M-C, M-I	Minimum Setbacks, Interior, Adjacent to a Residential Zone	SBMC §28.69.060.C, §28.72.060.C

Example 3: Third Story Setbacks in Multi-Unit Zones

In the Multi-Unit Residential Zones, the front setbacks for one- and two-story buildings is 10 feet, and the setback for three-story buildings is 15 feet; however, if the third story portion is less than 50% of the ground floor area, then the ground floor and second floor setbacks are reduced to 10 feet, and third floor setback is increased from 15 feet to 20 feet. NZO proposes eliminating both the 15' setback for three-story buildings and the <50% floor area requirement, and allowing the ground floor and second floor setbacks to be 10 feet, and the third floor setback to be 20 feet, to simplify the requirement.

Multi-Unit Zones: Use Interior Setbacks Standards in Lieu of Rear Setbacks

The R-M (currently R-3) and RM-H (currently R-4) Zones specify a “rear” setback in addition to the required interior setbacks. The rear setback distinguishes itself only by requiring second story portions to be located at least 10 feet from the rear lot line whereas the interior setback requirement for the second story is 6 feet. The rear setback becomes particularly arbitrary on corner lots or lots with two front yards, when one of the two remaining interior lot lines is designated as the “rear” lot line. Since no other zone has a specific “rear” setback and in an effort to simplify setback standards, NZO proposes the removal of a specific “rear” setback requirement and application of interior setback in this circumstance.

Garage Setback Reduction in Multi-Unit Zones

The current R-2 Two-Unit Residential Zone interior setback requirement for all covered and uncovered parking is 3 feet. In the less restrictive Multi-Unit Residential Zones however, that requirement is 6 feet. When the City considered a proposal to change garage setbacks to 3 feet in the Multi-Unit Residential Zones in 2008, the Council allowed it only for situations where the width of the lot was 55 feet or less, the garage did not face the street, and interior depth of the garage was no more than 20 feet. The Council’s concern was that unless these requirements were included for garages in the Multi-Unit Residential Zones, very large garages could be built at a distance of three feet from the property lines. Because there exist many one and two-unit developments on Multi-Unit Residentially zoned lots, NZO proposes to reduce the 6-foot required interior setback for parking in the Multi-Unit Residential Zones to 3 feet for smaller developments of up to two units as this would allow some flexibility for

smaller lots, as well as consistency with the current R-2 zoning, without allowing large garages close to the property lines.

[Ref. §28.18.060, NZO Table 28.04.030.B Minimum Setbacks, Interior, Residential Buildings, R-M (currently R-3) and RM-H (currently R-4) Zones]

Questions:

7a. Is the replacement of variable measurements to a constant standard for building height and setbacks in nonresidential zones adjacent to residential zones an acceptable solution?

7b. Shall the front setback for three story buildings in various multi-family residential and commercial zones be changed to 10 feet for the ground floor, 10 feet for the second floor, and 20 feet for the third floor instead of the existing Zoning Ordinance requirements of 15 feet for the entire building, without requiring the floor area of the third floor to be less than 50% of the floor area of the ground floor?

7c. Is the removal of the “rear” setback acceptable?

7d. Is a reduction of the required interior setback from 6 feet to 3 feet for parking in the Multi-Unit Zones, for up to two residential units, supportable?

8. Allowed Encroachments

Section 28.87.062 of the Municipal Code addresses encroachments into setbacks, open yards, common outdoor living space and required distances between main buildings. The extent of permitted encroachment for differing elements and equipment varied from two feet (2') to three feet (3'), and the inconsistency can be frustrating for designers. Overall consolidation to allow three-foot (3') encroachments, with some exceptions, is proposed. In the discussion below, references to encroachments relate to all setbacks and open yards, unless otherwise specified.

[Ref. NZO §28.23.080 Table TBD: “Allowed Encroachments,” additional SBMC references noted below.]

Building Elements

- Architectural Projections (Awnings, Canopies, Cornices, Eaves, Bay Windows) and Chimneys
 - Cantilevered architectural features at least three feet (3') above adjacent grade or finished floor and which do not provide floor space and chimneys are currently permitted to encroach up to two feet (2'). An increase to allow a three foot (3') encroachment is proposed.

- *Exceptions*

There are two exceptions to the 3' encroachment. Uncovered balconies may only encroach up to two feet (2'); and both balconies and bay windows are not permitted in the single unit residential zones in the interior setback.

[Ref. SBMC §28.87.062.A.2, A.3, & B.4]

Entry Elements

- Landings may continue to encroach 3' into setbacks, but NZO proposes to allow landings in the open yard. In addition, the description for landings is clarified to limit the size of landings to the minimum required by the Building Code, per Planning staff administrative practice.
- Porches. The existing ordinance provides that covered or uncovered entrance landings, not extending above the finished floor level of the first floor, and not larger than three feet by three feet (3' x 3') may encroach up to three feet (3') into any setback. NZO changes would revise the parameters for this amenity *for existing residences* (as of the date of the Ordinance implementation) and allow up to a six-foot wide by four-foot deep (6' W x 4' D), *covered* or uncovered porch to encroach into the *front* setback not closer than five feet (5') to any front property line. This encroachment would not be permitted in the interior setbacks or open yards or for new developments. The size increase would allow a more attractive and functional front porch.

[Ref. SBMC §28.87.062.B.2, NZO §28.23.080, Table Allowed Encroachments]

Site Development Elements

- Front Yard Elements (Benches, Mailboxes, Flag Poles, Fountains, Sculptures)

The NZO proposed to introduce a new parameter allowing up to a combined maximum of 50 square feet of common front yard elements such as fountains and mailboxes to encroach in the front setback. Encroachment into interior setbacks would not be allowed.

Mechanical and Other Equipment

The NZO proposes to allow some mechanical and other equipment (tankless water heaters, rain barrels, transformers, etc.) to encroach 3' into setbacks consistent with current Planning staff policy, which allows these items to encroach the same amount as roof eaves. Only mechanical equipment attached to the wall of the building may

encroach. Free-standing equipment such as full-size water heater tanks, air conditioners, and pool equipment would not be allowed encroachments.

Waste, Recycling and Outdoor Storage

As waste streams have become more specific, the number and types of receptacles has increased to accommodate trash, recycling and green waste. With the exception of single-unit residential development, the NZO proposes a new requirement that waste and recycling storage areas be screened from view by a fence, wall, landscape planting, or other means from any parking lot, right-of-way, or adjoining residential property. The proposed language is generally reflective of the existing screening requirements for nonresidential development stipulated in SBMC Title 7 – Sanitation.

Encroachment provisions *for receptacles provided by the City's contracted local waste hauler* are proposed in conjunction with the screening requirement but only for *existing development* (at the time of Ordinance adoption). Receptacles would be allowed to encroach three feet (3') into the interior setback. Receptacles may also encroach into the front setback but, no closer than ten feet (10') from the front property line. Encroachments would be subject to certain design conditions.

[Ref. NZO §28.23.170, SBMC §7.16.060]

Nonconforming Encroachment

NZO is proposing to allow the same amount of encroachments for non-conforming buildings as allowed for conforming buildings, provided that the encroachment is located no closer than 3' to the lot line when the required setback is 6' or more, and 2' when the required setback is 5'. For example, if a residence in the RS-1A zone (current A-1 zone) was constructed 6' away from the interior property line instead of 15' per the current setback requirement, the proposed NZO would allow a new 3' landing to encroach into the non-conforming setback provided that the landing is at least 3' from the interior property line.

Questions:

8a. Is the change from 2' to 3' for most encroachments acceptable?

8b. Are the two exceptions (balconies and bay windows) acceptable?

8c. Should the same encroachments be allowed on non-conforming buildings as conforming buildings, provided the minimum distance to the property line is met?

9. Open Yards

In General

The existing Zoning Ordinance identifies Open Yard requirements in each applicable zone, and in a separate section it lists allowed encroachments into the open yard. The NZO retains and reformats much of the existing language but, also combines all of the open yard area requirements from the different zones into one new section. This new section will reduce redundancy and inconsistencies by incorporating new and existing language into one section.

[Ref. SBMC §28.87.062, NZO §28.23.100.A]

Open Yard Area Exception for Single-Unit Zone Lots

A single, open yard area of 1,250 square feet with a 20-foot minimum dimension is required in single-unit residential zones. An existing exception allows lots of 6,000 square feet or less (the minimum lot size for the RS-6 Zone, currently R-1 zone) to provide the 1,250 square feet in more than one area but, allows up to 850 square feet of the open yard area to be provided in the remaining front yard (outside of the front setback). The NZO proposes to increase the lot area for this exception to lots of 7,500 square feet or less (minimum lot size for the RS-7.5 Zone, currently E-3 Zone) and simultaneously reduce the amount allowed in the remaining front yard from 850 to 400 square feet so that the majority of the open yard is still provided in the rear of the lot. Few developments have taken advantage of the existing exception to allow design flexibility. Current provisions apply to approximately 1,800 lots in the City and the proposed change in NZO would make approximately 2,100 additional lots eligible for this relief.

[Ref. SBMC §28.15.060.C.4, NZO §28.23.100.B.2]

Multi-Unit Residential Zones –Open Yard Percentage and Dimensions

For any residential development in the multi-unit or nonresidential zones, the existing ordinance allows a choice in the provision of outdoor living space through either a “Private Method” that generally focuses on individual open space areas for each residential unit, or through a “Common Method” that, creates a larger open space for use by all residents.

Currently, the Common Method requires that 15% of the lot area, including setbacks, be provided as open space. There is no minimum dimension to this area, although at least one area of minimum dimensions of 20 feet x 20 feet is required. This 20 foot x 20 foot area does not increase with the number of units; therefore, it is possible to have a large number of units with one 400 square foot common open yard. A

proposed change will require an additional 50 square feet of space for the Common Open Yard for each unit over three units, making it more comparable to the Private Method where each unit triggers a requirement for additional open space. Another proposed change is to require a 10 foot minimum dimension for the remainder of the 15% open space area to provide more useable open space.

Currently, the Private Method requires that 10% of the lot area, outside the setbacks, be provided as open space. There is no minimum dimension to this open space area. A change is proposed that would change the formula from 10% to 15% of the existing net lot area required for open yard and would now *allow inclusion of the setback areas*, but would add a new minimum dimension of 10 feet. This calculation methodology would be the same as described for the Common Method, above. The current requirement for lots with 4 or more units to provide one common area at least 15 feet x 15 feet is proposed to continue. Since the current 10% open space requirement has no minimum dimension, presumably the purpose is to provide additional setbacks beyond the minimum required by the zone, rather than to provide useable open space. Although the new calculation would reduce the amount of this additional setback, it would result in more useable open space areas, and a more simple calculation methodology.

The open yard changes are summarized in the table below.

Open Yard	Existing	Changes Proposed
Private Outdoor Living Space Method	<ol style="list-style-type: none"> 1. 10% net lot area, <i>excluding</i> setbacks, with no minimum dimensions 2. Private Outdoor Living Space for each unit. 3. 15'x15' Common Open Area required for 4+ units. 	<ol style="list-style-type: none"> 1. 15% net lot area, <i>including</i> setbacks, with 10'x10' minimum dimensions
Common Open Yard Method	<ol style="list-style-type: none"> 1. 15% net lot area, <i>including</i> setbacks. 2. One area 20'x20 regardless of the number of units. 3. No minimum dimensions for the remainder. 	<ol style="list-style-type: none"> 1. An additional 50 square feet of open yard per unit for 4+ units, added to the 20'x20' area. 2. 10' minimum dimension for the remainder.

Questions:

9a. Is the tradeoff of slightly reduced open space with no minimum dimensions to more useable space with minimum dimensions and a simpler ordinance supported?

9b. Is the proposed 50 square feet per unit in (for four or more units) in the Common Open Yard Method supported?

10. Industrial M-I Zone Uses Proposed for Removal (Current M-1 Zone)

General Plan Policy LG8: *Preserve and encourage the long term integrity of light manufacturing uses.*

Possible GP Implementation Action to be Considered LG8.1: Narrow Commercial Uses. *Narrow the range of permitted commercial uses to ancillary types in the M-1 zone for protection of industrial/manufacturing and related land uses.*

Possible GP Implementation Action to be Considered EF15: Protect Industrial Zoned Areas. *Preserve the industrial zones as a resource for the service trades, product development companies, and other industrial businesses not precluding priority housing in the C-M, Commercial Manufacturing Zone.*

Possible GP Implementation Action to be Considered EF16: Industrial Uses. *Ensure that there is sufficient land available for industrial uses.*

The M-1, Light Manufacturing zone of the City is the least restrictive and allows all uses other than residential (with an exception for a small caretaker unit). During Module 1 review, the Planning Commission's consideration of allowed uses to be removed from the zone was fewer in number than the NZO Joint Committee recommendations.

Table 28.06.020 Land Use Regulations-Manufacturing Zones lists allowed uses in the Manufacturing Zones (Attachment 4). This excerpt from Module 1 reflects uses proposed for removal from the M-I Zone, as sensitive land uses incompatible with industrial/manufacturing uses, or a commercial land use that may displace industrial or manufacturing uses that we want to preserve.

Uses Proposed for Removal from the M-I Zone

- Community Assembly (generally)*
- Cultural Institution
- Day Care Centers
- Instructional Services
- Schools
- Banks and Financial Institutions
- Commercial Entertainment (small- and large-scale, including theaters)
- Eating & Drinking Establishments
- Hotels & Extended Stay Hotels
- Offices, Medical & Dental
- Offices, Business & Professional**
- Food & Beverage Retail Sales
- General Retail

* Churches would be allowed with a Conditional Use Permit

** Business offices would be allowed if ancillary to the main allowed use.

Removal of Eating and Drinking Establishments, Food and Beverage Retail Sales, and General Retail uses from the M-I zone would not do away with all retail food or drink. The Food and Beverage Manufacturing use would remain, allowing small scale operations of less than 5,000 square feet to include wholesale or retail sales. Examples include small coffee roasters, micro-breweries, meat or fish processing and retail bakeries. Also, the Food Preparation use classification would allow businesses that prepare or package fresh food for on-site or off-site consumption with a storefront retail component.

Another method to preserve and encourage light manufacturing uses in the M-I Zone could involve reducing the parking requirement for industrial and manufacturing buildings located in the M-I zone. This approach would be presented in Module #3 in the Off-Street Parking and Loading standards discussion.

Parcels in the M-C, Manufacturing Commercial Zone (currently C-M zone) would likely be developed based on the highest and best use for that particular property, which cannot be predicted by Planning staff. These uses may include rental housing, commercial or manufacturing uses, or mixed use development. If some of the commercial uses are displaced from the M-I zone to the M-C zone, these uses are probably more compatible with high-density residential housing; and this would be viewed as a benefit, not a detriment, to any future housing projects developed in the M-C zone.

Questions:

10. What is the Committee's view of the land uses currently identified for removal?

11. Mobile Food Vendors (Module 1)

Update: The NZO proposes new operational standards and administrative processes to allow mobile food vendors on private property at the same time that the City Attorney's Office is bringing forward ordinance revisions to address mobile vending on City streets (food and non-food items). Planning Division and City Attorney have attempted to create consistency where possible, although given the differing environments and laws, some differences would remain. Following direction received from the Ordinance Committee on September 15, 2015, the City Attorney's Office will host a public workshop on December 3, 2015 to solicit comments from interested parties. Planning staff will join the workshop to gather feedback on the NZO proposal. The revised draft NZO language proposed for mobile food vendors on private property is attached (Attachment 5) along with a comparison chart summarizing the draft ordinances currently being discussed (Attachment 6).

12. Building Story Limitation

The existing zoning ordinance limits both the number of stories and maximum building height in the multi-unit residential zones and nonresidential zones. Public comment has suggested removal of the limitation on stories while retaining maximum building heights as a means of simplifying the development standards (Attachment 7). Collectively, existing ordinance definitions of “building height” “basement,” “cellar”, “grade,” “existing grade” and “finished grade” all contribute to the regulation of building height. Removal of the building story limitation by itself would not have an impact on the way that maximum building height is currently measured; however, the definitions above may need to be revised to read more clearly and better address height limitations, in particular for buildings designed with underground parking, basements and cellars.

[Ref. SBMC §28.04.110, §28.04.140, §28.04.285, §28.04.310, §28.04.645 and §28.04.645]

Question:

12. Is there support for staff to explore removal of the maximum building story limitation *if* other related definitions for building height are clarified?

Attachments:

1. Draft Module 2: Development Standards
2. Table: Highlighted and Other Development Standards Changes
3. 2001 Planning Commission Staff Report
4. M-I Zone-Uses Proposed for Removal (Table 28.06.020)
5. Revised Draft Ordinance Mobile Food Vending on Private Property
6. Mobile Vending Draft Proposals for City Streets and Private Property, Comparison Table
7. Public Comments Received



City of Santa Barbara California

PLANNING COMMISSION

STAFF REPORT

REPORT DATE: November 2, 2001
AGENDA DATE: November 8, 2001
SUBJECT: CONFIGURATION OF RESIDENTIAL UNITS
TO: Planning Commission
FROM: Planning Division, (805) 564-5470
Jan Hubbell, Acting Development Review Supervisor
Danny Kato, Zoning & Enforcement Supervisor

INTRODUCTION

On two Tuesdays, May 1 and 8, 2001, a member of the public addressed the Mayor and Council during the public comment portion of the Council meeting. His stated concern was that Planning Staff is not allowing exterior doors to bedrooms in residential units, but his underlying concern was that Planning Staff's actions to reduce the potential for illegal dwelling units were infringing on the rights of property owners to have certain amenities in their houses. Planning Commission also discussed some specific projects at a lunch meeting in May 2001.

The main tool that the City has to reduce potential for illegal dwelling units is a definition of residential unit that was adopted by Council in 1994. Prior to 1994, City policies were more permissive with regard to the types of improvements that could be allowed in residences, resulting in portions of residential units that were easily converted to illegal dwelling units. In recent years, Staff's administration of the definition of residential unit has become too restrictive. During the late spring/early summer 2001, Staff reviewed its policies regarding the configuration of residential units, and revised them to achieve a better balance between allowing amenities that are desirable in residential units, and reducing the potential for illegal dwelling units.

BACKGROUND

The City of Santa Barbara has a problem with illegal dwelling units. High housing prices and rents make the prospect of converting portions of legal residential units into illegal dwelling units very attractive. For example, a recent News-Press article stated that the median housing price was \$629,000. If someone put 20% down (\$126,000), the monthly mortgage payment for a median house (including property tax and insurance) would be about \$4,100. The Redevelopment Agency's annual housing survey found that the median monthly rent for a one bedroom apartment is \$1,020, and \$1,395

for two bedroom apartment, which is a significant portion (between 25% and 34%) of the monthly payment.

For many years, the Community Development Department Staff has been working with property owners and the City Attorney's Office to abate illegal dwelling units. Prior to 1994, Staff did not have many tools to help prevent the proliferation of illegal dwelling units. For instance, the Zoning Ordinance only allows one residential unit in the single family zones. However, the Zoning Ordinance's definition of a residential unit at that time was quite broad:

28.04.210 Dwelling Unit.

One (1) or more rooms in a dwelling, apartment house or apartment hotel designed for or occupied by, one (1) family for living or sleeping purposes and having not more than one (1) kitchen.

This broad definition did not provide much guidance to Staff, beyond the limitation of one kitchen; thus Staff approved almost any floor plan for a residential unit as long as it only contained one kitchen. As a result, an approved floor plan configuration could include areas that could easily be converted to illegal dwelling units, such as bedrooms with full baths, wet bars and exterior entrances.

In 1994, the City received a number of complaints from residents in areas with many illegal dwelling units. The permit records revealed that Staff had approved floor plan configurations that were easily converted to illegal dwelling units. The Planning Commission and City Council held public hearings, and adopted an expanded definition of residential unit that allowed the Community Development Director to declare an area as a residential unit if certain elements were present. The definition of residential unit adopted in 1994 is as follows:

28.04.469.5 Residential Unit.

- A. A building or portion thereof designed or occupied for residential purposes, containing not more than one (1) kitchen per residential unit, but not including hotels or boarding houses.
- B. A residential unit may be declared by the Community Development Director when a building or portion thereof is configured or occupied for residential purposes, whether permanent or temporary, and contains elements evidencing separate residential occupancy. Elements to be considered may include, but are not limited to, the proximal arrangement and various combinations of:
 - 1. Sink or bar sink;
 - 2. Garbage disposal;
 - 3. Dishwasher;
 - 4. Toilet;
 - 5. Bathing facility;
 - 6. Interior locking doors;
 - 7. Exterior entrance;
 - 8. Exterior staircase;
 - 9. Separate yard, patio, deck or balcony;

10. Separate phone line, cable line, or utility line;
11. Separate garage or parking area (covered or uncovered) or carport;
12. Countertops or cupboards;
13. Sleeping loft; or
14. Separate address/mail box designation.

Issuance of a building permit or other approvals does not, of itself, establish that a building or portion thereof is not a residential unit.

City Council directed Staff to examine proposed floor plan configurations, and to use the new definition of residential unit to deny certain improvements in areas that have high potential for conversion into illegal dwelling units. Improvements that are routinely denied are bathing facilities in areas with no interior access to the main residential unit, and wet bars in master bedrooms with exterior entrances.

As Planning Staff implemented the 1994 definition of residential unit, applicants became more “creative,” showing only the improvements that could be approved, then adding other improvements without permits after the final inspection. Staff found out about these additional improvements because some of these properties came back as enforcement cases for illegal dwelling units.

Over time, in order to respond to this creativity and to continue to implement Council’s direction, Planning Staff’s implementation of the 1994 definition became increasingly restrictive, i.e. fewer of the items on the list were necessary before Staff declared a residential unit. For example, as of April 2001, it was fairly common for Staff to deny exterior doors to master bedrooms (without wet bars), where the exterior door opened onto a side yard. Staff worked with all applicants to try to find a combination of improvements that both met the applicants’ needs and reduced the potential for conversion into illegal dwelling unit, but in most cases, Staff’s decision was weighted much more towards reducing the potential for conversion.

The reason that staff routinely decided in favor of reducing potential for conversion is that once building permits are issued for items like exterior doors or bathing facilities, the City cannot require the removal of those improvements if the area is later found to be an illegal dwelling unit. For instance, if a building permit for a master bedroom with an exterior door and bar sink and counter is approved, and an enforcement case reveals that the area is being used as an illegal dwelling unit, the City cannot require the removal of any of the improvements allowed by the building permit. So after the enforcement case is closed, it’s very easy to re-establish the illegal dwelling unit. The Administrative Fine of \$100 (1st offense), \$200 (2nd offense) or \$250 (3rd+ offense) is not much when compared to the potential rent generated from the illegal dwelling unit.

Whenever Staff reviewed a proposed floor plan configuration, the history of the property was taken into consideration. If the property did not have a history of illegal dwelling units or illegal habitable space, the decision about the types of improvements to allow was made in favor of the applicant, as much as possible. However, if the property had a history of illegal dwelling units or illegal habitable space, the decision about the types of improvements to allow was usually not made in favor of the applicant, as the zoning regulations had been violated previously.

New Design Paradigm

The balancing act between an individual's desire for amenities in residential units and community desire for legal dwelling units has become even more difficult, due to a new design paradigm for houses. Until fairly recently, a typical house would have a single master bedroom. For example, a typical three bedroom/two bath home would have one modestly sized master bedroom and master bath, two bedrooms and a common bathroom. The purpose of the master bedroom was for sleeping and bathing. The master bedroom may have had direct access to the backyard area, although this type of exterior access was not predominant. Even less common was a wet bar. Additionally, it was unusual for a typical house to have more than one master bedroom.

Today, the purpose of the master bedroom seems to include a place to "retreat," as well as a place to sleep and bathe. Houses built today almost always include very large master bedrooms and master bathrooms, with sitting areas and wet bars. Additionally, market demand is increasing for multiple master bedrooms and exterior doors (usually double French doors or large sliding glass doors), whether from bedrooms or from other parts of the house, given Santa Barbara's mild climate. It is not unusual for a proposal for a new house or a remodel to include three or more master bedrooms, each with exterior doors and wet bars.

Master bedrooms with exterior doors (especially those with wet bars) are easy to convert into illegal dwelling units (it can be as easy as putting a lock on an interior door). When the typical house included only one master bedroom, the likelihood of such a conversion was fairly small, as the floor plan for the remaining portion of the legal unit was awkward. However, with today's paradigm of multiple master bedrooms, if a property owner converted one of the master bedrooms into an illegal dwelling unit, the floor plan of the remaining portion of the legal unit would continue to make sense. Thus, the balancing act between an individual's desire for amenities and the community's desire for legal residential units is more difficult.

CURRENT POLICY ON RESIDENTIAL UNIT CONFIGURATION

Based on discussions that occurred during the late spring/early summer 2001, Planning Staff has created an internal policy that outlines how Staff is to administer the definition of residential unit in the Zoning Ordinance. The purpose of this policy is to provide guidance for Staff in determining whether improvements will be allowed when the configuration appears to be a residential unit.

In General

1. Half-baths (toilet and sink) are permissible in virtually all locations, whether detached or attached to the main structure.
2. Tank-type ("normal") water heater shall not be allowed in detached structures, unless that water heater is for both the main building and the detached structure.

3. Proposals for multiple tank-type water heaters in main structures shall be examined carefully. Depending on the floor plan configuration, they may or may not be allowed.
4. Tankless ("on-demand") water heaters can be allowed in multiple locations.
5. In 99.9% of all cases, one kitchen is allowed per residential unit. Exceptions can be made for extremely large (10,000 s.f. +) single family residences, depending on the floor plan configuration (e.g. both a catering kitchen and a regular kitchen can be allowed in extremely large houses).
6. Kitchen sinks are not allowed except in approved kitchens.
7. Food preparation facilities, such as stoves, refrigerators, hot plates, microwaves, etc. shall not be allowed, except in approved kitchens.
8. One laundry area is allowed per residential unit.
9. One laundry tub (deep sink) can be allowed in the approved laundry area.
10. Maximum length of counters outside approved kitchens and bathrooms (hereinafter referred to as bar counters) is five feet.
11. Maximum bowl size of sinks outside approved kitchens and laundry areas (referred to as bar sinks) is 12" x 12". Lavatory sinks are allowed in bathrooms.
12. Garbage disposals in sinks outside approved kitchens are not allowed.
13. "Rough-in" plumbing for future plumbing fixtures shall not be allowed.
14. Proposals for multiple heating systems will be examined carefully. Depending on the floor plan configuration, they may or may not be allowed.
15. Properties with a history of illegal dwelling unit use shall be examined carefully, and improvements such as exterior doors, bathing facilities, bar counters/sinks, washer/dryer hookups, etc. shall be severely limited on such properties if the applicant is the violator. However, if the violator sells the property, the property is treated as if it has no history of illegal dwelling unit use (i.e. the new owners get a "clean slate," and are not penalized by the activities of the violators). In order to get the clean slate, the new owners must not be relatives of the violator. Additionally, the transfer of property from the violator to a trust or holding company for the violator will not qualify it for the clean slate.
16. The recordation of a Zoning Compliance Declaration may be required.

Detached Structures and Areas with No Interior Access to the Main Living Area

1. Bathing facilities with interior access to the detached structure shall not be allowed. However, exterior showers or shower rooms with exterior access only can be allowed.
2. Bar counters with a bar sink may be allowed on a case-by-case basis. For example, bar counters and bar sinks could be allowed in pool cabanas.
3. Only tankless water heaters shall be allowed, unless the water heater is also for the main residential unit.

Attached Structures with Interior Access to the Main Living Area

The type of interior access to the main living area will determine the types of improvements that are allowed:

1. Areas that are connected by a long, narrow hallway shall be examined carefully. Depending on the floor plan configuration, they may either be treated as detached structures (above), or areas that are clearly part of the main living area (below).
2. Areas that are connected by a spiral stairway shall be examined carefully. Depending on the floor plan configuration, they may either be treated as detached structures (above), or areas that are clearly part of the main living area (below).
3. Areas that can be easily closed off into separate residential units shall be examined carefully. Depending on the floor plan configuration, they may either be treated as detached structures (above), or areas that are clearly part of the main living area (below).

Areas that are Clearly Part of the Main Living Area

1. Generally, master bedrooms (bedrooms with attached full bathrooms) or similar configurations without bar counters and bar sinks will be allowed to have exterior doors onto backyards or decks.
2. Generally, master bedrooms or similar configurations without exterior doors will be allowed to have bar counters (5 foot maximum) and bar sinks (12"x12" maximum bowl size).
3. Master bedrooms or similar configurations shall not have both exterior doors and bar counters/sinks.
4. Generally, up to three master bedrooms as described above shall be allowed without much scrutiny.
5. More than three master bedrooms as described above may be allowed on a case-by-case basis. However, if the configuration resembles a boarding house or hotel, it will not be allowed.
6. The recordation of a Zoning Compliance Declaration may be required.

QUESTIONS FOR THE COMMISSION

The maximum sink size of 12"x12" in areas outside the kitchen and laundry area is a compromise between no sink (reduced potential for conversion to illegal dwelling units) and a double-bowl kitchen sink (desired by many individuals). The bar sink in areas outside the kitchen and laundry areas allows people to have water, and to clean small items, but makes it inconvenient to wash big dishes and pots and pans, thereby reducing the potential for conversion to illegal dwelling units. This requirement is fairly easy to enforce, as any new plumbing requires a building permit, and the City can review the plans, and require that the sink size be reduced.

The maximum counter length of 5 feet is a compromise between no counters (reduced potential for conversion to illegal dwelling units) and up to 15 feet of counters (desired by many individuals). The idea here is to allow a certain amount counter space, but not so much that it makes an area that is easily converted to a kitchen. Cabinets other than those supporting the counters (such as upper cabinets, pantries, etc.) have not been addressed. Limiting the counter length in order to prevent conversions of area to illegal dwelling units is not easily done, as the installation of counters and cabinets do not require building permits (as long as there is no structural, electrical or plumbing changes). Questions for the Commission are these:

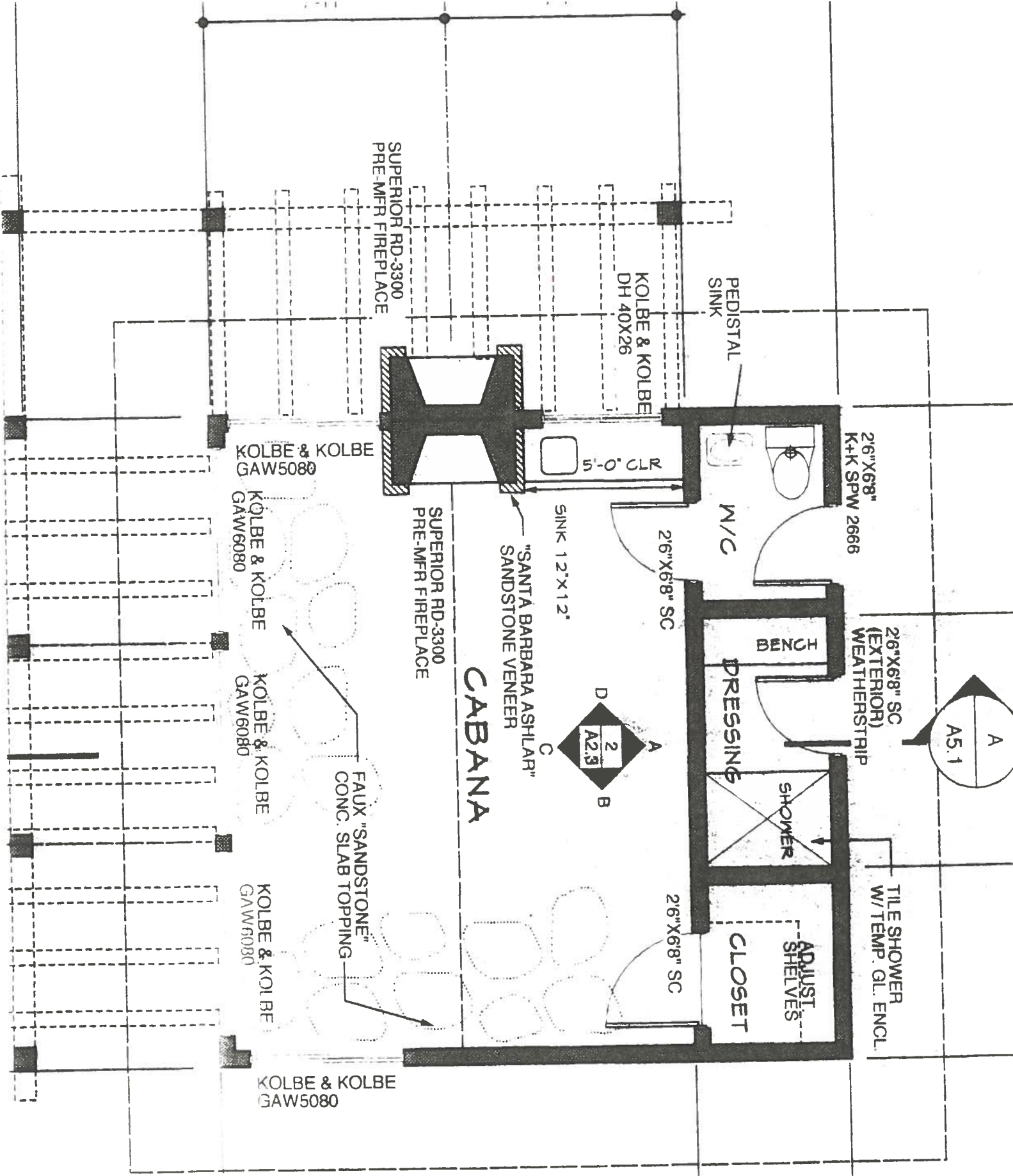
1. Is the maximum sink size of 12"x12" in areas outside approved kitchens and laundry areas appropriate? Too big? Too small?
2. Is the maximum counter length of five feet outside approved kitchens appropriate? Too long? Too short?
3. Should the amount of cabinets other than those supporting the counters be regulated? If so, how much should be allowed?

CONCLUSION

Staff believes that the administrative policies listed above provide a good balance between an individual's desire for specific amenities, given an increased demand for multiple master bedrooms, exterior entrances and wet bars, with the community's desire to restrict the proliferation of illegal dwelling units.

Staff would appreciate the Planning Commission's discussion and input on the issue of configuration of residential units.

Exhibits: A-F. Approved Floor Plan Configurations
G-J. Pending Floor Plan Configurations

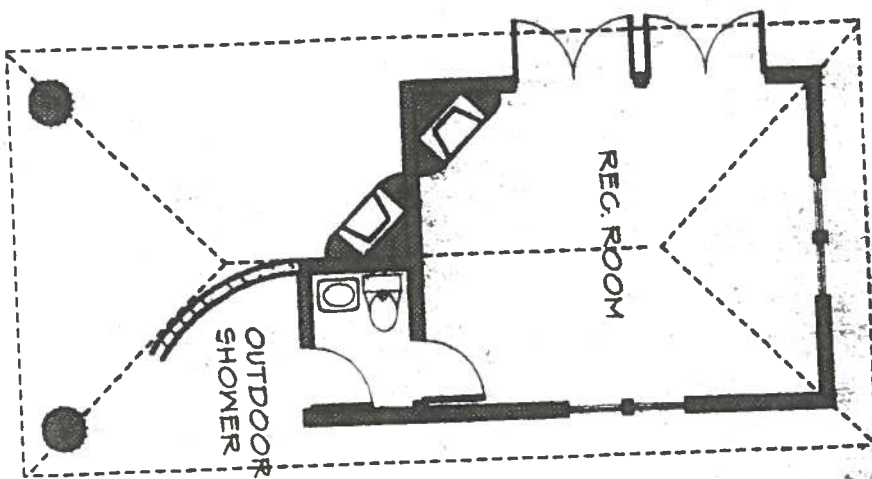


Approved

EXHIBIT B

5'-0"





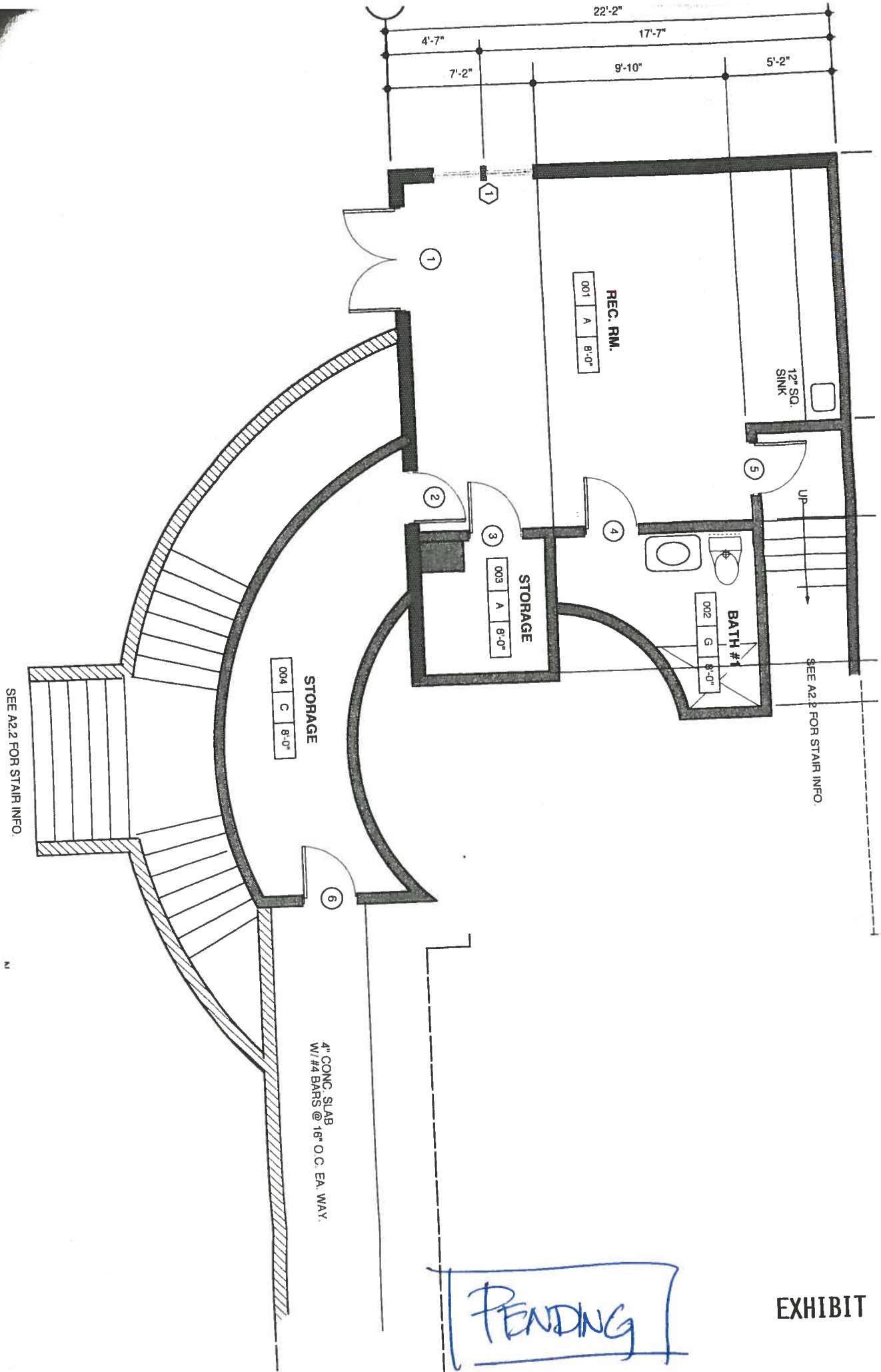
CABANA PLAN

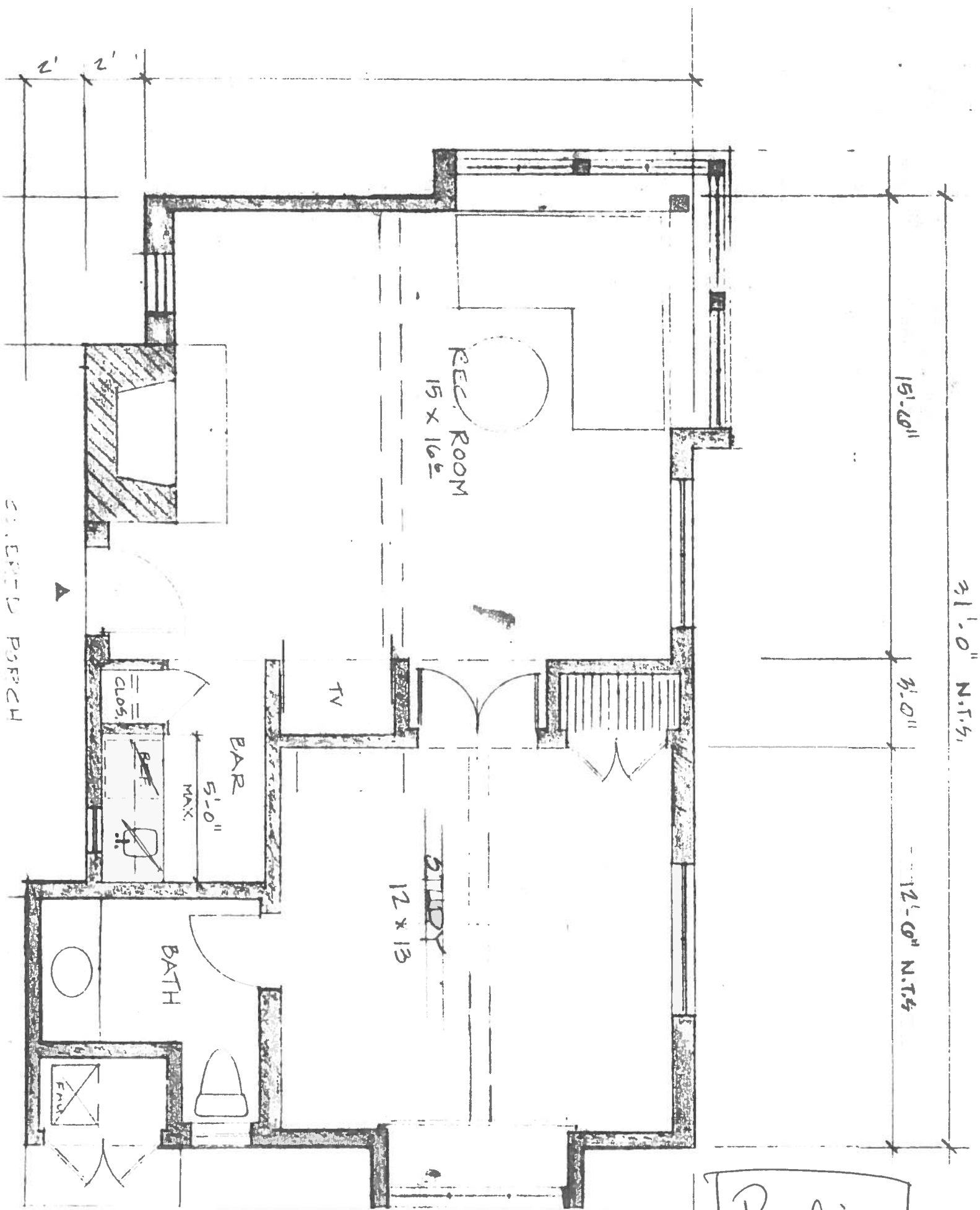
1/8" = 1'-0"

242 S.F.

APPROVED

EXHIBIT E





REAR PORCH

EXHIBIT H

Pending

LOWER LEVEL



PLAN LEGEND

- EXISTING (E) WALL TO
- NEW 2x4 STUD WALL
- REMOVE EXISTING W.

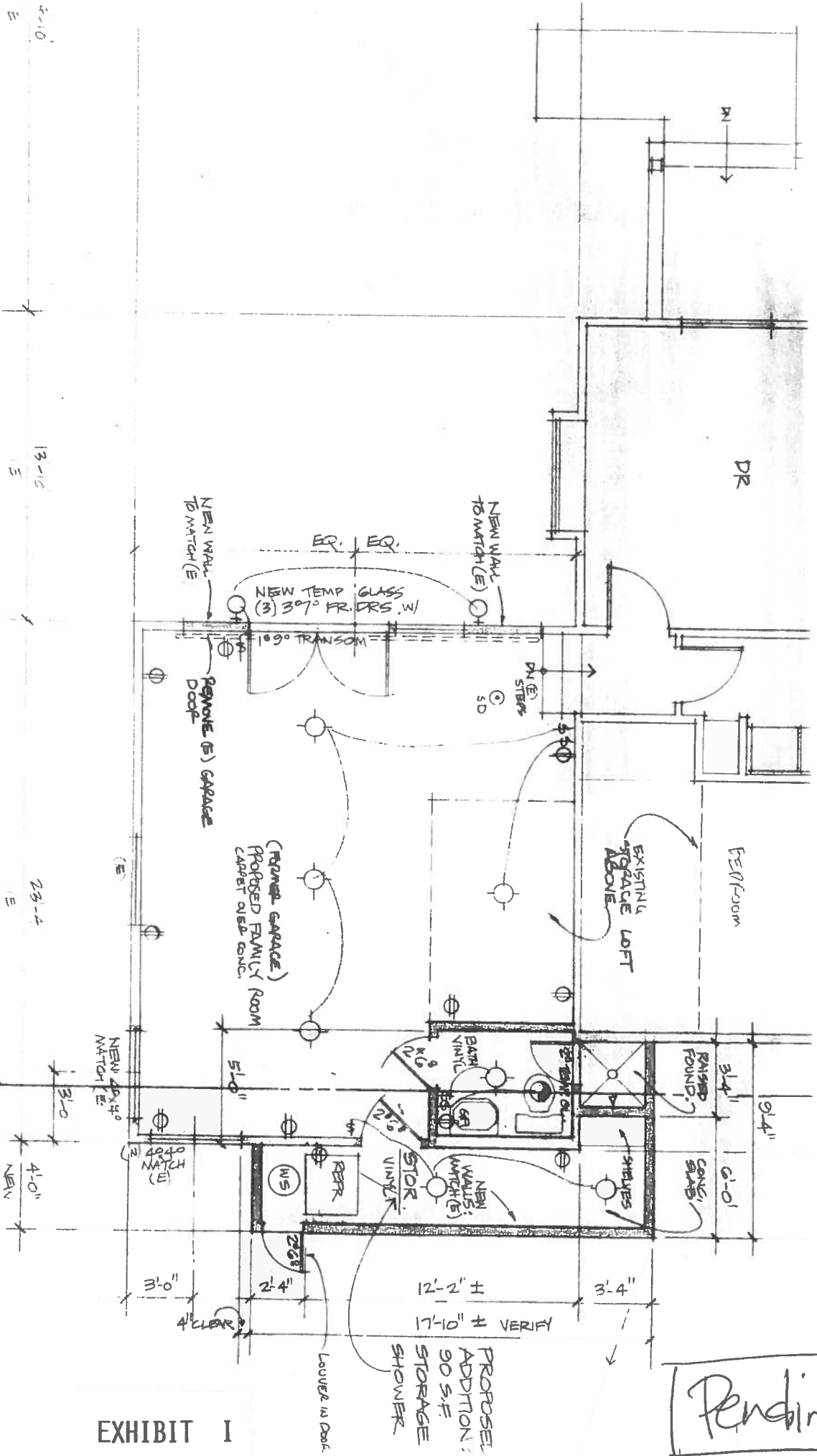
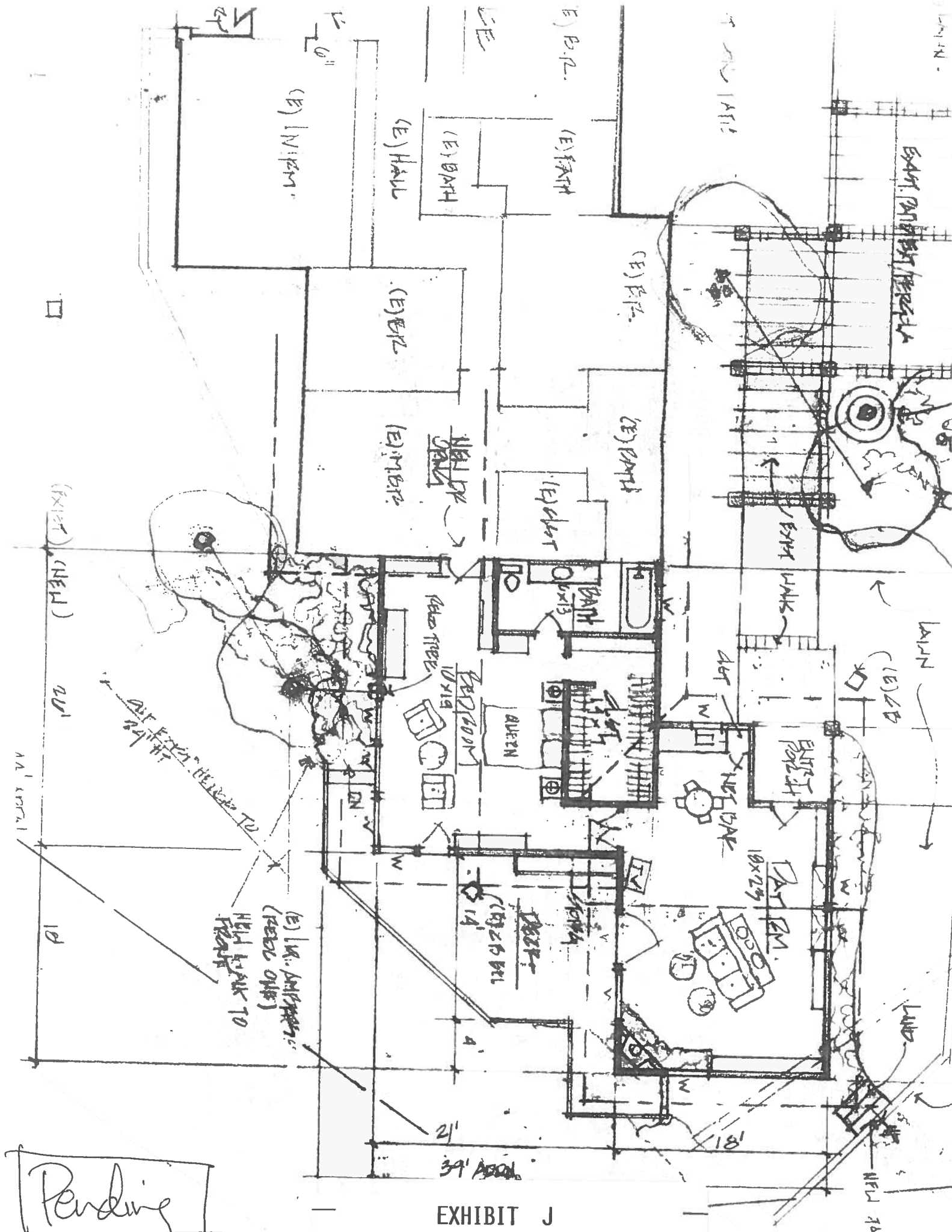


EXHIBIT I

Pending



Pending

EXHIBIT J

M-I Manufacturing Zone – Uses Proposed for Removal (*)

NZO Module 1, v.2015-11-10

TABLE 28.06.020: LAND USE REGULATIONS-MANUFACTURING ZONES			
“A” Allowed Use “PSP” Performance Standard Permit Required “CUP” Conditional Use Permit Required		“-“ Use Not Allowed “(H)” Specific Limitations at the end of the table	
Use Classification	M-C (C-M)	M-I (M-I)	Additional Regulations
Residential Uses			
Residential Housing Types			
Single-Unit Dwelling	A		
Duplex	A	-	
Multi-Unit Residential	A	-	
Special Unit Types	-	-	
Caretaker Unit	-	A(4)	
Home Occupations	A	-	§Home Occupation
Community Care Facilities, Residential Care Facilities for the Elderly, and Hospices			
6 or fewer individuals	A	-	§Community Care Facilities, Residential Care Facilities for the Elderly, and Hospices
7 to 12 individuals	A	-	
More than 12 individuals	CUP	-	
Family Day Care			
Small	A	-	
Large	A	-	§Large Family Day Care Homes
Group Residential	A		
Mobilehomes	A(2)	-	§Mobilehomes, Recreational Vehicles, and Modular Units, Individual Use
Mobilehome Park	CUP(2)	-	§Mobilehome and Permanent Recreational Vehicle Parks
Supportive Housing	§Transitional and Supportive Housing		
Transitional Housing	§Transitional and Supportive Housing		
Public and Semi-Public Uses (6)			
Colleges and Trade Schools	A	A	
* Community Assembly	A	ACUP (8)	
Community Garden	A	A	§Community and Market Gardens
* Cultural Institution	A	A-	
* Day Care Centers	A	A-	§Day Care Centers
Emergency Shelter	A	-	§Emergency Shelter

TABLE 28.06.020: LAND USE REGULATIONS-MANUFACTURING ZONES			
"A" Allowed Use "PSP" Performance Standard Permit Required "CUP" Conditional Use Permit Required		"--" Use Not Allowed "(#)" Specific Limitations at the end of the table	
Use Classification	M-C (C-M)	M-I (M-I)	Additional Regulations
Hospitals and Clinics			
Hospitals	CUP	-	
Clinic	A	-	
Birth Centers	A	-	
* Instructional Services	A	A	
Public Facilities	A	A	
Recreational Vehicle Park			
Overnight	CUP(2)	-	§Overnight Recreational Vehicle Parks
Permanent	CUP(2)	-	§Mobilehome and Permanent Recreational Vehicle Parks
* Schools	A	CUP	
Skilled Nursing Facility	A	-	
Social Service Facilities	CUP(5)	CUP(5)	
Commercial Uses			
Adult Entertainment Facilities	A	A	§Adult Entertainment Facilities
Agriculture	A	A	§Agriculture
Animal Care, Sales and Services			
Animal Daycare	A(3)	A	
Grooming and Pet Stores	A	A	
Kennels	-	A	
Veterinary Services	A	A	
Artists Studios	A	A	
Automated Teller Machines	A	A	§Automated Teller Machines
Automobile/Vehicle Sales and Services			
Automobile Rentals	A	A	
Automobile/Vehicle Sales and Leasing	A(1)	A(1)	
Service and Repair, Minor	A	A	
Service Station	A	A	§Automobile Service Stations
Washing	A	A	
* Banks and Financial Institutions	A	A	
Business Services	A	A	
Commercial Entertainment and Recreation			
* Cinema/Theater	A	A	
* Small-scale	A	A	
* Large-scale	CUP	CUP	

TABLE 28.06.020: LAND USE REGULATIONS-MANUFACTURING ZONES			
"A" Allowed Use "PSP" Performance Standard Permit Required "CUP" Conditional Use Permit Required		"--" Use Not Allowed "(#)" Specific Limitations at the end of the table	
Use Classification	M-C (C-M)	M-I (M-I)	Additional Regulations
* Eating and Drinking Establishments	A	A	
Food Preparation	A	A	
Funeral Parlors and Interment Services	A	A	
* Hotels and Extended Stay Hotels	A	A	§Hotels and Extended Stay Hotels
Live-Work Units	A	-	§Live-Work Units
Maintenance and Repair Services	A	A	
Market Gardens	A	A	§Community and Market Gardens
Medical Cannabis Dispensaries	PSP	PSP	§Medical Cannabis Dispensaries
Mobile Food Vendors	A	A	§Mobile Food Vendors
Nurseries and Garden Centers	A	A	
Offices			
* Business and Professional	A	A(9)	
* Medical and Dental	A	A	
Outdoor Sales and Display	A	A	
Outdoor Seating	A(7)	A(7)	
Parking, Public or Private	A	A	
Personal Services	A	A	
Retail Sales			
<i>Building Materials and Services</i>	A	A	
* Food and Beverage Retail Sales	A	A	
* General Retail	A	A	
<i>Neighborhood Market</i>	A	-	§Retail Sales, Neighborhood Market
Industrial Uses			
Automobile and Vehicle Repair, Major.	A	A	
Commercial Vehicle and Equipment Sales and Rental	A	A	
Construction and Materials Yard	A	A	
Custom Manufacturing	A	A	
Hazardous Waste Management Facility	CUP	CUP	§Hazardous Waste Management Facility Overlay
Household Hazardous Waste Collection Facility	A	A	
Food and Beverage Manufacturing			
<i>Small Scale</i>	A	A	
<i>Large Scale</i>	-	A	
Industry, General	-	A	

TABLE 28.06.020: LAND USE REGULATIONS-MANUFACTURING ZONES			
“A” Allowed Use “PSP” Performance Standard Permit Required “CUP” Conditional Use Permit Required		“-“ Use Not Allowed “(##)” Specific Limitations at the end of the table	
Use Classification	M-C (C-M)	M-I (M-I)	Additional Regulations
Industry, Limited	A	A	
Recycling Collection Facility	A	A	
Research and Development	A	A	
Salvage and Wrecking	CUP	CUP	
Towing and Impound	A	A	
Warehousing and Storage			
Indoor	A	A	
Outdoor	-	A	
Personal Storage	A	A	
Wholesaling and Distribution	-	A	
Transportation, Communication, and Utilities Uses			
Freight and Truck Terminals	-	A	
Light Fleet Based Services	A	A	
Transportation Passenger Terminals	A	A	
Telecommunications Facilities	§Telecommunications Facilities		
Public Works and Utilities	§Public Works and Utilities		
Other Applicable Types			
Accessory Uses and Structures	A	A	§Accessory Uses and Structures
Animal Keeping	A	A	§Horse Keeping and SBMC 6.08, Care and Keeping of Animals
Interim Use	CUP	CUP	§Interim Use
Nonconforming Use	§Nonconforming Use		
Temporary Use	§Temporary Use		
Specific Limitations			
1. Limited to sales of used automobiles. New or used motorcycles or mopeds are allowed.			
2. Not allowed within a high fire hazard zone unless designed to meet high fire standards or a landmark district.			
3. Outdoor activities may occur between the hours of 9:00 a.m. and 4:00 p.m. Activities at all other times shall be conducted within an enclosed building.			
4. Limited to a caretaker unit of no more than 400 square feet of net floor area.			
5. Must be located a minimum 300 feet from any other social service facility or emergency shelter.			
6. Other public or quasi-public facilities not specifically permitted may be allowed in any zone pursuant to Conditional Use Permit approval.			
7. In conjunction with any establishment that serves or sells food and/or beverages.			
8. Limited to churches with a Conditional Use Permit approval.			
9. Ancillary to main allowed use.			

DRAFT PROPOSED NEW ZONING ORDINANCE

28.32.260 Mobile Food Vendors

- A. Purpose.** The City recognizes that mobile food vendors can be a benefit to the community by providing economic development, convenient service, and varied dining options in commercial areas. The purpose of this section is to establish the standards, locations, and permitting requirements that will allow mobile food vendors to operate on private property within the City, as well as preserve the peace, safety and welfare of the community.
- B. Standards.** Mobile food vendors on private property shall be located and operated in compliance with the following standards.
1. ***Use and Zone.*** Mobile food vendors may only operate in non-residential zones, on lots developed with non-residential uses.
 2. ***Number.*** Shall not exceed one truck per day per parking lot.
 3. ***Duration.*** Maximum three (3) hours per day per parking lot. No lot may have a mobile food vendor onsite for more than 90 days total in any 12-month period.
 4. ***Distance.*** No mobile food vendor on private property shall operate closer than a 500 foot radius from another mobile food vendor operating on private property. For the purpose of this section, distance shall be measured from location to location along the shortest possible straight line distance, regardless of any customary or common route or path of travel, i.e., “as the crow flies”.
 5. ***Setback.*** Mobile food vehicles shall maintain a minimum 10-foot front setback from any right-of-way, for site visibility.
 6. ***Required Parking.*** No parking spaces are required for a mobile food vendor that meets all of the standards under this section.
 7. ***Displaced Parking.*** Unless otherwise allowed in this chapter, mobile food vendors may not eliminate any parking spaces required for any existing uses on the same lot. Required parking spaces for an existing non-residential use may be displaced if the existing non-residential use is not open during the event. See SBMC 28.32.350, Temporary Use Permit, for additional displaced parking allowances.
 8. ***Location.*** Mobile food vehicles used by vendors shall not be permitted as a permanent or proprietary location on any property within the City. Vehicles shall not be left unattended at any time, or be left on-site when inactive or stored overnight. Mobile food vendors may not operate on a vacant lot.
 9. ***Obstructions.*** Location and operation including customers, seating, and equipment, shall not obstruct the right-of-way, sight distances, or otherwise create hazards for vehicle or pedestrian traffic. The location shall comply with applicable accessibility requirements and the Americans With Disabilities Act.
 10. ***Allowed Products.*** Operations are limited to the sales of food and beverages for immediate consumption.

11. ***Allowed Vehicles.*** Operations shall only be conducted from a motor vehicle, or vehicle with a trailer consistent with State law and County Health Department approvals. Other types of food vending from a temporary structure such as a push cart, stand-alone trailer, or kiosk are not allowed under this ordinance.
12. ***Nuisance.*** Mobile Food Vendors shall be responsible for keeping the area clean of any litter or debris and shall provide a visible trash receptacle for use by customers. No vendor shall ring bells, play chimes, play an amplified musical system, or make any other notice to attract attention to its business while on private property. The use of prohibited or unpermitted signs for mobile food vendors is not allowed.
- C. **Zoning Affidavit Required.** A Zoning Affidavit, showing evidence of property owner approval and compliance with all standards listed in this section, is required to be submitted to the Community Development Department for all mobile food vendors operating in the City.
- D. **Temporary Use Permit.** A mobile food vendor that does not comply with all standards listed in this section will require a Temporary Use Permit to operate.



JOINT COMMITTEE MEETING
Staff Notes

Monday, December 7, 2015

9:30 A.M.

COMMITTEE MEMBERS:

HARWOOD "BENDY" WHITE, COUNCILMEMBER, *Chair*
JOHN CAMPANELLA, COMMISSIONER
MICHAEL JORDAN, COMMISSIONER
SHEILA LODGE, COMMISSIONER
CATHY MURILLO, MAYOR PRO TEMPORE
JUNE PUJO, COMMISSIONER, *Alternate*

STAFF:

MARCK AGUILAR, PROJECT PLANNER
DANNY KATO, SENIOR PLANNER
BRENDA BELTZ, ASSOCIATE PLANNER
SCOTT VINCENT, ASSISTANT CITY ATTORNEY

ATTENDANCE:

Members Present: Council Member Bendy White, Planning Commissioner John Campanella, Planning Commissioner Michael Jordan, Planning Commissioner Sheila Lodge, and Council Member Cathy Murillo

Members Absent: June Pujo, Commissioner, *Alternate*

Staff Present: Marck Aguilar, Danny Kato, Brenda Beltz, and Scott Vincent.

Consultants: Martha Miller

STAFF OVERVIEW:

Staff explained that the purpose of the meeting is for staff and the new consultant to gather input from the committee members regarding their key project objectives as well as the possible challenges that may arise with the upcoming changes.

PUBLIC COMMENT:

Maggie Munroe:

- Protested the proposed rezoning of fish and meat processing.

- Referenced the fish processing plant at 528 N. Quarantina Street/Bond Avenue (Santa Barbara Fish Market) that is affecting the whole neighborhood and quality of life with smell and noise that prevent planning outdoor activities.
- Fish processing should not be allowed in residential neighborhoods.

Natasha Todorovic, Milpas area resident and business owner:

- Concerned with high density zoning in the Milpas Corridor and impact on water resources, infrastructure, and congestion.
- Concerned with fish processing zoning that could impact residential neighborhoods.
- Concerned with Marijuana dispensary going into the Milpas corridor near a half-way/rehab facility.
- Asked that City consider residences and culture of the community in zoning.

Natalia Govony, 422 N. Milpas Street business owner:

- Concurred with Ms. Todorovic in asking for consideration of the Milpas Corridor in zoning.

FISH PROCESSING DISCUSSION

Given the expressed public interest in fish processing, the Joint Committee agreed to hear an update from staff. Senior Planner Danny Kato gave an overview of fish processing stating that for many years zoning staff have been interpreting that the C-M, M-1, O-M1, H-C, and O-C zones allow fish processing. Complaints about Santa Barbara Fish Market resulted in the City Attorney making a determination that fish processing is not an allowed use in the C-M and M-1 zones. The enforcement case with Santa Barbara Fish Market is still active. The site is a pocket of C-M zoned land in the middle of a C-2 zone area.

Mr. Kato stated that the NZO would in the current draft allow fish processing in the C-M and M-1 zones, but staff would support removing it from the CM zone.

Committee members inquired about neighborhood compatibility guidelines and Mr. Kato acknowledged that performance standards exist but, staff is not out there every day to ensure that they are adequately addressed to neighbors' satisfaction.

Committee members inquired about the former fish processing operation at 618 E Gutierrez St. (Kanaloa) which had operated for a lengthy duration in the M-1 zone. The new location on Chapala Street is zoned C-2. Staff reviewed the floor plan carefully to ensure it was primarily a restaurant and retail fish market, with a minor ancillary amount of fish processing, as allowed by the C-2 zone.

Commissioner Jordan inquired about what issues arise in zones where fish processing is allowed. Should standards be considered when the use is adjacent to residential zones due to the migrating nature of odors? Compatibility in the zone should be considered. Mr. Vincent raised the issue of requiring a Conditional Use Permit or Performance Standard Permit for these uses but, questioned how a decision maker would make a decision if the operation is not yet in operation. Committee member Jordan offered that an effort can be made to screen noise and odors if the operation is bordering a residential zone. Mr. Vincent responded that there could be more specific standards for that specific use, even if it's an allowed use in the zone. Staff to consider technical means or standards to address fish processing for possible incorporation into NZO.

Staff affirmed the consensus by the Committee that fish processing would be removed from the C-M zone and that it would be allowed in the M-1 zone with further consideration for possible performance standards adjacent to residential zones.

MODULE TWO DISCUSSION ITEMS:**1. RESIDENTIAL UNIT STANDARDS, SIZE, AND LIMITATIONS****Consultant/Staff Overview:**

Proposed reduction of the minimum residential unit size from 400 square feet to 220 square feet for studio units only. Changes are consistent with Building Code. No significant effect on the Average Unit-Size Density (AUD) program.

Codifying limitations on residential amenities on questionable floor plans. Allowing “two out of three amenities” has been a policy method to balance out allowing desirable improvements with preventing illegal dwelling units. Once a building permit is issued, there is little ability to rescind it even if it leads to an illegal dwelling unit and therefore staff is cautious when approving certain amenities and configurations. A Performance Standard Permit will allow more amenities while also strengthening the ability to rescind them if used for an illegal dwelling unit.

COMMITTEE’S COMMENTS:**Commissioner Lodge:**

- Concerned with the livability of units that are 200 square feet.

Commissioner Campanella:

- Confirmed that the proposed minimum unit size of 220 square feet would also apply to multi-unit development. Expressed that a positive of this change would be that it may save a unit for the developer during design review.
- Need to consider elevator and handicap accessibility. Concerned that it may not be practical.

Council Member Murillo:

- Supportive.

Council Member White:

- Liked seeing the smaller units in the 200 square foot range. Small and tight but, similar to living on a boat. Also likes the Performance Standard Permit (PSP) approach.
- Recommended that fines be increased for illegal dwellings
- Supportive.

2. ACCESSORY BUILDINGS, CONFIGURATIONS AND ATTACHMENT**Consultant/Staff Overview:**

A new definition of “attached” vs. “detached” accessory buildings is important because attachment/detachment affects where development can occur on the site, e.g. front yard, and also whether the space is categorized as accessory space, which is limited in size and configuration. The eight foot (8’) minimum length of attachment between buildings has been a long standing standard and staff is confronted a few times weekly with proposed development that involves building attachments. Building attachments

are both a zoning issue related to development patterns as well as illegal dwelling units. A structure might be attached enough so that it does not meet the definition of “detached accessory space” but, may not be attached enough to not result in an illegal dwelling unit. NZO is attempting to codify and thus clarify for the public what is currently somewhat ambiguous.

COMMITTEE’S COMMENTS:

Commissioner Jordan:

- Recommended that presentations or reports include a reference to frequency of the topic circumstances being discussed and that staff provide comments or an opinion to characterize the effect of the NZO proposal.

Commissioner White:

- Process should make as little new policy as possible and bring forward existing policy in a transparent and user friendly way. Reiterates that fines for illegal dwelling units should be increased.

Committee supportive of the codification of limitations on detached guestrooms (Staff Report Question 2a.) and the proposed building attachment requirements presented in NZO (Staff Report Question 2b.)

3. ACCESSORY BUILDINGS AND GARAGES, FLOOR AREA

Consultant/Staff Overview:

Proposed changes to the maximum allowed floor area of garages and accessory buildings. Distinctions between one acre and three acre lots are provided for discussion and different gradations could be proposed if desired. Discussed with the Staff Hearing Officer (SHO) what types of accessory building floor area modification requests are typically seen (12 requests in the past 5 years) and over what size lots. In general, modifications have been granted for larger structures on larger lots. Concerns about lot splits can be dealt with by the discretionary body reviewing the lot split. Some large lots may have small development envelopes and consideration should be given to limiting those in some manner. Staff will add in some checks to address compatibility.

COMMITTEE’S COMMENTS:

Commissioner Lodge:

- Recommended no change to the current floor area limitations.

Council Member Murillo:

- Supports the recommended changes.

Commissioner Jordan:

- Supports the recommended changes.
- Trusts that there will case-by-case design review when required

Commissioner Campanella:

- Supports the recommended changes, subject to design review.

Council Member White:

- Likes the notion of tools for controlling size and for decision makers to make compatibility findings.

Committee Chair White called for a recess at 11:00 a.m. and reconvened the meeting at 11:08 a.m.

4. NONCONFORMING USES, STRUCTURES AND SITE DEVELOPMENT

Consultant/Staff Overview:

Prior to circa 1996, the City's ordinance was traditional with respect to nonconforming buildings, with the expectation that nonconforming buildings and uses would go away to be replaced with new conforming buildings and uses. However, it was recognized that some desirable buildings are nonconforming and it would be a community benefit to allow some nonconforming structures to remain. It is acknowledged that there is some inherent unfairness in allowing certain provisions for nonconforming development that would not be available to conforming development.

Changes to building height, doors and windows in the setbacks represent a large number of SHO applications that are frequently approved. When doors are near property lines, often the door light affects neighboring properties more than actual use of a setback.

The 1975 down zone increased setbacks for many parcels from five feet (5') to six feet (6'), resulting in nonconforming structures built five feet from property lines. Therefore, NZO proposes a minimum standard of five feet from the property line as the guideline for capturing and addressing many nonconforming situations.

Development opportunity should be made clear to reduce potential for "gaming the system" and not adhering to the intent. To prevent the loophole for creating an addition followed by a demo-rebuild, NZO language will need to be looked at more closely.

COMMITTEE'S COMMENTS:

Alterations and remodels to nonconforming structures in the setback

Commissioner Jordan

- Concerned about allowing new doors in the setback.

Council Member White:

- Supports Staff recommendations.

Additions to nonconforming structures in the setback

Commissioner Jordan:

- Recommended that an administrative exception or development standards be required.

Commissioner Lodge:

- Concerned that with buildings becoming more nonconforming than they already are, undecided where to place a limit.

Council Member White:

- Concerned about additions in setbacks made first, followed by demolish and rebuild of the primary, nonconforming structure.
- Supports a modest amendment to nonconforming setback area but kept to a certain scale.

Council Member Murillo:

- Supports within the interior setback and within all zones.
- Concurs with Council Member White.
- Supports an administrative exception process for additions in nonconforming setback area.

Staff:

- Will consider gradations for additions in the setback that would allow some modest portion by right and further portions through more analysis.

Nonconforming Garages and CarportsConsultant/Staff Overview:

Undersized garages and carports can encroach in the setback if proposed to be rebuilt larger in order to meet current standards; carports can be converted to garages.

- Committee was supportive.

Nonconforming Open YardConsultant/Staff Overview:

Some open yards almost meet the specified dimensions and area. These are often reviewed on a case by case basis as to whether the yard area would be considered to meet the requirement. Nonconforming open yard can be viewed from multiple perspectives: if the minimum area and minimum dimensions are not fully met, then no improvements can be made and this is perhaps too restrictive; or if neither the area or dimensional requirements are met, development could occur anywhere on site and that is perhaps too accommodating. Staff will continue to develop

Commissioner Lodge:

- Does not want to see greater nonconformity. Supports if the language is updated so that as much of the open yard is maintained, as possible.

Commissioner Jordan:

- Concurs with Commissioner Lodge and would prefer to see as much of the back yard maintained as possible. Hesitant to support inclusion of relatively narrow ten-foot wide corridors in the open yard requirement.

Council Member Murillo:

- Supports the original policy and not being so restrictive. There are some people that need more interior living space.

Council Member White:

- Stated that it is good to have development flexibility without requiring a modification.

PUBLIC COMMENT:

Krista Pleiser:

- Inquired as to whether the proposed setbacks were reverting to 1963 zoning. Staff responded that that is not proposed.

Nonconforming Residential Density – 250 sq. ft. Allowance

- Council Member White and Commissioners Campanella and Lodge were supportive.

Demolition and Replacement of Nonconforming Buildings

Commissioner Lodge

- Supports the changes.

Council Member White

- Supports the changes.

New Definition of Demolition

Commissioner Lodge

- Supports the changes.

Council Member White

- Supports the changes.

Substitution of Nonconforming Uses

Commissioner Lodge

- Supports the changes.

Council Member White

- Supports the changes.

5. RECONSTRUCTION OF NONCONFORMING NONRESIDENTIAL BUILDINGS

Currently, a structure that exceeds the maximum height allowed in the zone that is *voluntarily* demolished must conform to the maximum height limit if rebuilt and would require conforming parking.

Reconstruction of Nonconforming Nonresidential Buildings

- Commissioner Lodge supports option #2 on Page 13 of the Staff Report
- Council Members White and Murillo and Commissioners Jordan and Campanella support option #1.

CLOSING COMMENTS:

- Council Member Murillo pointed out that Mobile Food Vendors attended a recent City hosted community workshop (December 3, 2015) and were not present at this meeting despite proposing a lot of changes to the draft ordinance for vending on private property. Staff offered that most vendors are preoccupied in mornings and a morning meeting may have been inconvenient. She would like to see another meeting where these changes can be addressed. Staff is still considering the information received and will confer with the City Attorney before deciding on next steps.
- Commissioner Campanella would like to see the next meeting include discussion of the body of the ordinance and questions on specific language and remainder of the staff report.
- Staff encouraged the Committee to forward any questions in preparation for the next meeting.

Committee Chair White adjourned the meeting adjourned at 12:29 p.m.



JOINT COMMITTEE MEETING
Staff Notes

Monday, December 14, 2015

9:30 A.M.

COMMITTEE MEMBERS:

HARWOOD "BENDY" WHITE, COUNCILMEMBER, *Chair*
CATHY MURILLO, MAYOR PRO TEMPORE

JOHN CAMPANELLA, COMMISSIONER
MICHAEL JORDAN, COMMISSIONER
SHEILA LODGE, COMMISSIONER
JUNE PUJO, COMMISSIONER, *Alternate*

STAFF:

MARCK AGUILAR, PROJECT PLANNER
DANNY KATO, SENIOR PLANNER
BRENDA BELTZ, ASSOCIATE PLANNER
SCOTT VINCENT, ASSISTANT CITY ATTORNEY
JULIE RODRIGUEZ, PLANNING COMMISSION SECRETARY

ATTENDANCE:

Members Present: Council Member Bendy White, Council Member Cathy Murillo, Planning Commissioner John Campanella, Planning Commissioner Sheila Lodge, and June Pujo, Commissioner, *Alternate*

Members Absent: Planning Commissioner Michael Jordan

Staff Present: Marck Aguilar, Danny Kato, Brenda Beltz, Julie Rodriguez, and Scott Vincent.

Consultants: Martha Miller

STAFF OVERVIEW:

Staff explained that the purpose of the meeting was for staff and the new consultant to continue to gather input from the committee members regarding their comments to Module 2. Development Standards.

PUBLIC COMMENT:

None given.

MODULE TWO DISCUSSION ITEMS (continued from meeting of December 14, 2015):**6. DISTANCE BETWEEN BUILDINGS ON THE SAME LOT**

Consultant/Staff Overview:

Building separation was a common early type of zoning standard for light and air between buildings. Over the years, more standards have come into play such as the solar access ordinance, and additional setbacks on upper floors/stories. Development standards have become more complex, with more regulation on different aspects of a building. The various layers can impose too much rigidity for development. NZO proposes removing the distance between buildings standard and allow the more sophisticated standards to take hold.

There are different separation standards for buildings on the same lot. The required separation between a residential main building and accessory building is five feet (5'). Separation between main buildings ranges from 10-feet to 20-feet depending on the zone and number of stories.

The purpose of building separation is no longer clear. The Building Code requires a minimum separation for safety that can be reduced if designed for a given fire rating. Buildings can be constructed abutting each other. There is no purpose or intent noted in the zoning ordinance so it is inferred that the purpose is for light and air. This has been more of a community design standard than a health and safety issue.

PUD overlay zone is a good example of overly complex setback calculations that can result in a nonconforming setback if a conforming addition to height is made. NZO seeks to simplify this by specifying a particular distance, not a variable distance dependent on height. A PUD goes through many discretionary reviews and design findings are typically required.

The Solar Access Ordinance currently applies within residential zones, which does not protect a residence if adjacent to a southerly commercial zone.

PUBLIC COMMENT:

Trish Allen:

- Supportive of simplifying distance requirements and proposed changes.

QUESTIONS:

- 6a. Shall minimum distance requirements between main buildings and other main buildings, and between main buildings continue to be required for zoning purposes?

COMMITTEE'S COMMENTS:

- Commissioners Pujo, Campanella, Council Member Murillo were in support of changes.

Commissioner Lodge:

- Remains concerned with distance separation in residential and referenced a condo project example in Carpinteria where she felt squeezed and wanted to see more light/air/space.

Commissioner White:

- Agreed with Commissioner Lodge on distance in residential.
- Agrees as long as compatible and good design.
- Likes the flexibility as long as there are good findings of good design.
- Solar access is at a critical point.
- Residential in a commercial zone makes no sense to him and he would like the opportunity to look more closely at that.

6b. Shall the PUD continue to specify distances between buildings?

MOTION Murillo/Pujo

No. PUD should not continue to specify distances between buildings.

Ayes 5 Noes 0

7. HEIGHT AND SETBACK CHANGES FOR NONRESIDENTIAL BUILDINGS ADJADENT TO RESIDENTIAL ZONES AND THIRD STORY SETBACKS IN MULTI-UNIT ONES

Consultant/Staff Overview:

Proposal to replace all variable setbacks with a constant, replace a “rear” setback with “interior” and reduce setbacks for garages on lots with less than 3 units from 6’ to 3’. The rear setback is different from interior setback in R-3/R-4 zones in that it only affects a second story location. NZO proposes to remove the “rear” setback designation.

Proposed changing the setback for garages from 6-feet to 3-feet maybe 10 years ago. Perhaps 5-6 years ago, staff suggested that since a 3’ setback is allowed for garages in R-2 zone, why not allow the same in the R-3/R-4 zones. Council/PC did not support a wholesale change because in the R-2 zone, we would expect smaller garages; whereas in the R-3/R-4 zones garages could be very large for a multi-unit development. Taking this into account the NZO would allow smaller setbacks for development of no more than two units in the R-3/R-4 which would still respect the previous direction..

COMMITTEE’S COMMENTS:

- Concern was expressed that maintenance of a narrow 3-foot strip of land between a garage and property line fence/wall would be difficult. Carports would be treated the same as garages with regard to setbacks.
- Removal of the variable setback results in a clearer standard for neighbors, designers, developers. Perhaps consider “banking” the setback area taken up by garages/carports for use elsewhere on the site, similar to the County’s variable setback approach.

PUBLIC COMMENT:Bonnie Freeman, neighbor:

- Wanted to know differences between rear and interior setbacks. Staff explained.
- Wanted to know if the 3-foot garage setback is residential or commercial. Staff confirmed that this applies to residential. And whether there any restrictions or designs that would not allow landscaping within the 3-foot setback.

Trish Allen:

- Supports the simplification of these modifications.
- Appreciates the elimination of the rear yard, especially helpful with corner lots, where it has been as issue.
- To have it all interior will allow for fewer mistakes and allow for more consistency.

QUESTIONS:

- 7a. Is the replacement of variable measurements to a constant standard for building height and setbacks in nonresidential zones adjacent to residential zones an acceptable solution?

MOTION Campanella/Pujo Accept Staff recommendations

Ayes 5 Noes 0

Commissioner Lodge added that she is supportive as long as the amount of open space on a parcel remains the same.

- 7b. Shall the front setback for three story buildings in various multi-family residential and commercial zones be changed to 10 feet for the ground floor, 10 feet for the second floor, and 20 feet for the third floor instead of the existing Zoning Ordinance requirements of 15 feet for the entire building, without requiring the floor area of the third floor to be less than 50% of the floor area of the ground floor?

CONSENSUS

Yes for 10 feet for ground floor; 10 feet for second floor; and 20 feet for the third floor.

- 7c. Is it acceptable to remove “rear” setback designation– which would change the second-story setback from 10-feet to 6-feet for the second story building?

CONSENSUS

Yes.

Ayes 5 Noes 0

- 7d. Is a reduction of the required interior setback from 6 feet to 3 feet for parking in the Multi-Unit Zones, for up to two residential units, supportable?

CONSENSUS

Yes.

Ayes 5 Noes 0

Committee Chair White called for a recess at 11:00 a.m and reconvened the meeting at 11:08 a.m.

8. ALLOWED ENCROACHMENTS**Consultant/Staff Overview:**

Changes include allowing some existing encroachments to go from 2 feet to 3 feet and allowing some new encroachments such as porches and waste receptacles. Porch encroachments would only be allowed for buildings existing at time of ordinance adoption. Associated stairs would also be allowed. Limit of 50 square feet of elements in the front setback is a simple approach to prevent excessive obstructions in the

front setback. Consider a sliding scale such as percentage that would allow more square footage on larger lots for front yard elements.

PUBLIC COMMENT:

Trish Allen:

- Supportive. It looks good. Suggests a sliding scale of square footage for larger properties as 50 square feet may be too limiting.

Ben Werner:

- Suggested that perhaps a percentage is better than a 50-foot requirement for front yard. Recommended proportionality.

COMMITTEE'S COMMENTS:

Council Member White, Commissioner Campanella, Commissioner Pujo

- Support proportionality and screening from public view for mechanical equipment.

QUESTIONS:

- 8a. Is the change from 2-feet to 3-feet for most encroachments acceptable?
- 8b. Are the two exceptions (balconies and windows) acceptable?
- 8c. Should the same encroachments be allowed on non-conforming buildings as conforming buildings, provided the minimum distance to the property line is met?

MOTION Murillo/Campanella

Support 8a-c with exception to allow proportionality for Front Yard Elements in the front setback.

Ayes 5 Noes 0

CONSENSUS

Yes to allow screened trash enclosures in the front setback.(These are not included in Front Yard Elements and therefore are not included in the 50 square feet limitation.)

City Planner Renee Brooke arrived at 12:00 p.m. and left at 12:32 p.m.

9. OPEN YARDS

Consultant/Staff Overview:

NZO proposes to consolidate and refine the open yard requirements for residential properties. The current ordinance allows lots of 6,000 square feet and less to provide 850 square feet of the required 1,250 square feet open yard requirement in the remaining front yard (between the front setback area and the front of the house). NZO proposes to expand this to lots of 7,500 square feet and less, and would reduce the portion allowed in the remaining front yard from 850 to 400 square feet maximum. The existing provision has only been employed in a handful of properties. Loosening up the parameters may help more sites.

Two options are available for provision of Open Yard in multi-unit zones: Private Outdoor Living Space (POLS) Method and Common Open Yard Method. Under the POLS Method, with more units, more private outdoor space is required. With the Common Method, once the 20'x20' area is provided, no further additional open yard area is required if the number of units increases. NZO proposes to more closely align and make for equitable the yard areas required by the two methods and that is the basis for the additional 50 square feet per unit above three units. Have attempted to reduce confusion but, may have fallen short.

COMMITTEE'S COMMENTS:

Commissioner Campanella:

- Expressed that possible consequences of adding 50 square feet of usable area per unit might be that it forces additional units to upper floors while also reducing the area available for parking. Ms. Miller responded that only a certain portion would be needed at grade, the additional open yard can be provided at above-ground levels.

Commissioner Pujo:

- Supportive with recommendation that proposed changes do not result in additional requirement added to AUD projects during this initial 8-year trial period.

Commissioner Lodge:

- Would like to ensure that there is adequate open space for higher density development.

Commissioner Campanella:

- Would like to see analysis of changes of how the additional square footage for the Common Method would affect building footprint, parking, etc.

QUESTIONS:

- 9a. Is the tradeoff of slightly reduced open space with no minimum dimensions to more usable space with minimum dimensions and a simpler ordinance supported?
- 9b. Is the proposed 50 square feet per unit in (four or more units) in the Common Open Yard Method supported?

MOTION Murillo/Campanella

Support 9a-b with protection for AUD.

Ayes 5 Noes 0

Commissioner Pujo added that no additional requirements should be added to AUD projects during the AUD test period. The committee consensus was that AUD should be protected.

Ayes 5 Noes 0

10. INDUSTRIAL M-I ZONE USES PROPOSED FOR REMOVAL (CURRENT M-Z ZONE)

Consultant/Staff Overview:

Offices are often a core function of businesses so the "the M-I zone has been revised to allow ancillary office use. This would address Marborg's concern. Religious institutions may remain, and new would be allowed with a Conditional Use Permit.

COMMITTEE'S COMMENTS:Commissioner Campanella:

Inquired whether Eating and Drinking Establishments would include wine or beer production with tasting rooms? Mr. Kato responded that mostly includes restaurants, a tasting room is ancillary use to production operation. Staff is prepared to explain to the Planning Commission why the uses proposed for removal are a threat to manufacturing.

Murillo:

Concerned about gentrification in the Funk Zone.

Kato: Higher rent uses tend to move into the M-1 zone to pay lower rent which in turn increase rent overall, in a cyclical patter. Manufacturing uses can no longer afford area rents and move out.

Council Member White:

- Need to clarify that retail portions of Food and Beverage Manufacturing land use [defined in Module 1] is limited to ancillary use.

Council Members Murillo and White:

- Concerned that Food Production land use should not include outdoor tables. Some limited retail sales is acceptable. The "101 Deli" cited as a good example of what is appropriate for the zone.

PUBLIC COMMENT:

Ben Werner: Business owners would want to maximize their income but, prohibit the same nearby as that would result in a rent increase. Is there a record or public input from the property owners in the M-I zone and their expressed preference for uses in the zone?

D. Kato: What the property owners may want - to maximize returns – such as offices, restaurant, etc., may not be consistent with what the City/community wants for the zone.

Ben Werner: Would businesses be allowed to continue?

Council Member White: Yes. Legal allowed uses and legal nonconforming uses can continue but, there are limitations for nonconforming uses.

QUESTION:

10. What is the Committee's view of the land uses currently identified for removal?

- Commissioner Pujo supports allowing retail sales, but no table service.
- Council Member White supports retail sales but does not want to lose anymore.
- Council Member Murillo stated that the 101 Deli is OK. Supports small lunch counters. She cannot support the addition of one more winery.

MOTION Lodge/Campanella

Forward list of uses proposed for removal from the M-I zone.

Ayes 5 Noes 0

11. MOBILE FOOD VENDORS (MODULE 1)

Marck Aguilar provided an update on a public workshop held on December 3, 2015. More time is needed to review all comments received and provide a later update. Some suggestions that came out of the meeting included:

- Proposed standard would limit mobile vending trucks to one per parking lot. Beyond that number, a Temporary Use Permit would be required. Audience recommended 5 per parking lot.
- Three hours in one off-street location was considered too limiting by the audience which recommended 6 hours in one location.
- One hour to park on the street was considered inadequate, and up to 6 hours was suggested.
- Limited number of days to 90 per year at an off-street location. Audience proposed increasing to 180 days.
- There was not a discussion on retail.
- Health Department regulates mobile food vendors.

COMMITTEE'S COMMENTS:

- Council Member Murillo would like to see more public outreach done and outreach to Spanish speaking vendors.
- Commissioner Lodge asked for clarification on the need for additional set up time when there are mobile trucks that drive up to locations and are already set up to sell to consumers.
- Commissioner Pujo stated that this needs to pass the test of temporary and transitory. If it becomes 365 days a year plus all day business hours, then it is no longer a mobile use.

12. BUILDING STORY LIMITATION:

Consultant/Staff Overview:

Currently, all zones include a standard for maximum height and maximum number of stories. Can be difficult to have these somewhat overlapping standards. Additionally, this comes into play specifically for partial, subterranean parking structure and when is it a story and how does it play into the height limit. NZO proposes removal of the story limitation but, would not affect the height limitation. Story limitations were removed from AUD projects. Helps with flexibility of residential use in commercial zones, i.e. mixed use.

COMMITTEE'S COMMENTS:

Commissioner Pujo:

Strongly supports removal of story limitation. Number of stories is a false parameter.

PUBLIC COMMENT

Trish Allen

- Advocates strongly. Story has been a constraint to certain developments and does not lend itself to good design. There are still neighborhood compatibility and mass, bulk and scale considerations.

QUESTION:

12. Is there support of staff to explore removal of the maximum building story limitation *if* other related definitions for building height are clarified?

MOTION Lodge/Campanella

Forward list of uses proposed for removal from the M-I zone.

Ayes 5 Noes 0

13. OTHER

Solar Access – Applies only in residential zones, so if a commercial building shades a residential zone, the ordinance does not apply.

QUESTION:

13. Is there consensus of applying solar standards that now apply to residential zones to commercial zones that shade residentially zoned property?

MOTION Lodge/Pujo

Apply solar standards to commercial zones where the building shades residential zoned property.

Ayes 5 Noes 0

Committee Chair White adjourned the meeting at 12:48 p.m.

City of Santa Barbara

New Zoning Ordinance Module 2: Development Standards

February 29, 2016

*Draft for Planning Commission
Review*

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Introduction

This Module proposes a set of development standards and overlay zones for Santa Barbara’s New Zoning Ordinance (NZO), based on an analysis of existing provisions, the Issues and Options paper, and the General Plan, and comments from City staff, Planning Commission, NZO Joint Committee, and stakeholders.

There are two types of development standards addressed in this Module. Those that apply to a particular zone or area, such as in the Residential Single Unit Zone or the Upper State Street Area, and those that apply generally to some or all zones throughout the City.

Each section of this Module is organized in the manner it is anticipated to be organized in the final Ordinance. Placeholders are included for sections of the Ordinance that are not part of the NZO effort for informational purposes. These sections are not part of the NZO module but will be incorporated into the final Ordinance.

BASE ZONE DEVELOPMENT STANDARDS

Each base zoning district chapter contains a table that states the essential development standards (e.g., lot area, height, setbacks) for the zone and makes reference to other applicable standards that follow the table or that are located in another part of the zoning regulations. For each zone, the current development standards are carried forward or altered as noted.

As discussed in Module 1, Use Regulations, the current zone names do not always provide information regarding the purpose and nature of the zone. The current zone names are proposed to be updated to provide context of the character of each zone. This approach is a renaming of zones and does not rezone property. The following table lists the current and proposed base zone district names. Current base zone district names are also shown in parenthesis in each of the development standards tables in subsequent sections of this document.

PROPOSED ZONE CLASSIFICATIONS			
Proposed Zone		Existing Zone	
Base Zones			
Residential Zones			
RS-1A	Residential Single Unit, 1 acre minimum lot size	A-1	One-Family Residence Zones
RS-25	Residential Single Unit, 25,000 square foot minimum lot size	A-2	
RS-15	Residential Single Unit, 15,000 square foot minimum lot size	E-1	
RS-10	Residential Single Unit, 10,000 square foot minimum lot size	E-2	

PROPOSED ZONE CLASSIFICATIONS			
<i>Proposed Zone</i>		<i>Existing Zone</i>	
<i>RS-7.5</i>	Residential Single Unit, 7,500 square foot minimum lot size	E-3	
<i>RS-6</i>	Residential Single Unit, 6,000 square foot minimum lot size	R-1	
<i>R-2</i>	Two-Unit Residential	R-2	Two-Family Residence
<i>R-M</i>	Residential Multi-Unit	R-3	Limited Multiple-Family Residence
<i>R-MH</i>	Residential Multi-Unit and Hotel	R-4	Hotel-Motel-Multiple Residence
Commercial and Office Zones			
<i>O-R</i>	Office Restricted	R-O	Restricted Office
<i>O-M</i>	Office Medical	C-O	Medical Office
<i>C-R</i>	Commercial Restricted	C-P	Restricted Commercial
<i>C-G</i>	Commercial General	C-2	Commercial
Manufacturing Zones			
<i>M-C</i>	Manufacturing Commercial	C-M	Commercial Manufacturing
<i>M-I</i>	Manufacturing Industrial	M-I	Light Manufacturing
Coastal-Commercial Related Zones			
<i>C-L (coastal)</i>	Commercial Limited	C-I	Limited Commercial
<i>HRC-1</i>	Hotel and Restaurant	HRC-1	Hotel and Related Commerce
<i>HRC-2</i>	Hotel and Visitor-Serving Commercial	HRC-2	Hotel and Related Commerce
<i>H-C</i>	Harbor Commercial	HC	Harbor Commercial
<i>O-C</i>	Ocean-Oriented Commercial	OC	Ocean-Oriented Commercial
<i>OM-I</i>	Ocean-Oriented Manufacturing Industrial	OM-I	Ocean-Oriented Light Manufacturing
Park and Recreation Zone			
<i>P-R</i>	Park and Recreation	PR	Park and Recreation Zone

OVERLAY ZONES

Overlay zones are combined with base zone(s) and include provisions that apply in addition to the regulations of the underlying base zone. The existing zoning ordinance does not treat overlay zones consistently. Special districts, overlay zones, and dual zoning classifications currently included in the existing zoning ordinance are all essentially ‘overlay zones’. Additionally, current overlay zone names do not always provide information regarding the purpose and the nature of the zone. The following table lists the current and proposed overlay zone names. Notable changes to existing regulations are described following the table.

PROPOSED OVERLAY ZONE DESIGNATIONS			
<i>Proposed Overlay Zone</i>		<i>Existing Overlay Zone</i>	
AC	Auto, Commercial, and Services Overlay Zone	P-D	Planned Development Zone
CZ	Coastal Overlay Zone	S-D-3	Coastal Overlay Zone
HWMF	Hazardous Waste Management Facility	HWMF	Hazardous Waste Management Facility
PUD	Planned Unit Development Overlay Zone	PUD	Planned Unit Development Zone
RD	Research and Development Overlay Zone	C-X	Research and Development and Administrative Office Zone
RH	Resort Hotel Overlay Zone	R-H	Resort-Residential Hotel Zone
SRP	San Roque Park Subdivision Overlay Zone	S-D-1	S-D-1 Zone
SH	Senior Housing Overlay Zone	S-H	Senior Housing Zone
USS	Upper State Street Area Overlay Zone	S-D-2	S-D-2 Zone

Auto, Commercial, and Services (AC) Overlay Zone [Currently P-D Zone]

The stated intent of the current P-D Planned Development Zone is generally to provide for planned centers with uses and restrictions other than those contained in other zone classifications. Allowed uses focus on automobile, commercial, and service type uses and include a selection of public and semi-public, commercial, and industrial uses. The application of this zone has been for automobile dealership developments. In order to more closely align the zone with the permitted uses and application, the P-D Planned Development Zone is recommended to be renamed the Auto, Commercial, and Services (AC) Overlay Zone.

Coastal (CZ) Overlay Zone [Currently S-D-3 Zone]

This chapter includes information and regulations that apply specifically to the Coastal Overlay Zone. General information for the Coastal Overlay Zone is included in this chapter, with reference to the City's Local Coastal Program Land Use Plan. The definitions provided in the existing Zoning Ordinance for this zone will be incorporated into a "Coastal Zone" category in the Definitions chapter of the NZO. The requirements for issuance of a Coastal Development Permit will be included separately in the Administrative Provisions of the NZO.

Planned Unit Development (PUD) Overlay Zone [Currently PUD Zone]

This chapter provides the regulations associated with the Planned Unit Development Zone, as described in Chapter 28.36 of the existing Zoning Ordinance. The chapter contains information regarding the purpose and applicability of this zone, as well as how to establish a PUD Zone, and its specific allowed uses and development, open space/landscaping standards, and the requirement for a Precise Plan.

Research and Development (RD) Overlay Zone [Currently C-X Zone]

This chapter includes the provisions from Chapter 28.60 of the existing Zoning Ordinance regarding the Research and Development Overlay Zone. The zoning map abbreviation is recommended to change from C-X to RD to more closely align with the name of the zone. Specific requirements regarding the purpose and applicability of this overlay zone, land use regulations, development standards, specific landscaping requirements, and operating standards are carried forward for this overlay zone.

Resort Hotel (RH) Overlay Zone [Currently RH Zone]

This chapter includes the provisions from Chapter 28.27 of the existing Zoning Ordinance with regard to resort hotels which may be established in the RS-15, RS-10, RS-7.5, RS-6, R-2, and R-M zones. Provisions include the purpose and applicability of this overlay zone, the requirement for designation of the area on the Zoning Map, land use regulations, development standards, and procedures for establishing an RH Overlay Zone.

San Roque Park Subdivision (SRP) Overlay Zone [Currently S-D-1 Zone]

This chapter includes provisions that apply solely to the San Roque Park Subdivision Special District Zone. The chapter describes this Special District's purpose and location/applicability, as well as the distinct setback requirements that apply in this overlay zone. The descriptive name (San Roque Park Subdivision), rather than the Special District number, for this overlay zone will provide context for where this zone applies.

Senior Housing (SH) Overlay Zone [Currently SH Zone]

The provisions for this overlay zone can be applied to areas in the City zoned as single-unit residences or two-unit residence zones and are carried forward in the NZO. Provisions include the purpose and applicability of this overlay zone. In addition, the standards and requirements that deviate from the underlying zones are included, as well as specific maximum occupancy requirements, as described in Chapter 28.42 of the existing Zoning Ordinance. Information related to the procedures for establishing this overlay zone, the required plans for establishment of this overlay zone, and termination procedures are also included.

Upper State Street Area (USS) Overlay Zone [Currently S-D-2 Zone]

This chapter includes the information and requirements related specifically to the Upper State Street Area Special District Zone, including the purpose and location/applicability for this Special District, as well as specific development standards. The descriptive name (Upper State Street Area), rather than the Special District number, is used for this overlay zone to provide context for where this zone applies.

Hazardous Waste Management Facility (HWMF) Overlay Zone [Currently HWMF Zone]

The Hazardous Waste Management Facility (HWMF) Overlay Zone establishes requirements for the location, review, and development of hazardous waste management facilities. Currently Chapter 28.75 of the existing Zoning Ordinance, substantive changes will not be made to these

provisions. They will be formatted for consistency with the NZO structure and incorporated into the Final Hearing Draft. A placeholder for this chapter is included in this Module.

CITYWIDE REGULATIONS

Citywide regulations include standards that apply generally to some or all zones throughout the city, including general site regulations, nonconforming provisions, and performance standards. Standards applicable to particular zones, such as Residential Single Unit Zone, appear within the development regulations of that zone chapter. Existing regulations are simplified and clarified where appropriate for consistent application. Graphics will be added to provide illustrative examples and context to specific situations where appropriate.

General Site Regulations

This chapter contains general site regulations that are applicable to all land within some or all zone classifications, regardless of use. Regulations are consolidated from a number of areas in the existing title, particularly Chapter 28.87 (General Provisions).

Density Bonus and Development Incentives

The provisions from Section 28.87.400, Density Bonus and Development Incentives, of the existing Zoning Ordinance are included in this chapter along with changes for consistency with State law.

Nonconforming Uses, Structures, and Lots

This chapter includes provisions for nonconforming uses, structures, and lots, incorporating the applicable existing regulations from sections of Chapter 28.87. The proposed regulations retain most of the existing requirements for alteration and expansion of nonconforming uses and structures. New provisions are also added to allow flexibility in maintenance of nonconforming structures, clarify changes that can be made, and address nonconforming interior setbacks created as a result of the 1975 “Residential Downzone” and other ordinance updates. Changes have also been made to allow the 100 percent reconstruction of nonconforming buildings damaged or destroyed by fire, flood, wind, earthquake, or other calamity. This is currently only allowed for nonconforming residential buildings and nonresidential buildings that lose less than 75 percent of market value due to damage.

Off-Street Parking and Loading Requirements

To be addressed with Module #3.

Performance Standards

This new chapter is added to include the applicable land use/community compatibility standards identified throughout the existing Zoning Ordinance that relate to Title 28 in order to establish clear, measurable standards for determining if a use or activity creates a nuisance on adjoining property. The standards in this chapter are based primarily on standards currently applicable in the SP-7 and C-X zones.

Base Zone Development Standards

Chapter 28.04 Residential Zones

28.04.010 Purpose

See Module 1

28.04.020 Land Use Regulations

See Module 1

28.04.030 Development Standards

Tables 28.04.030.A and 28.04.030.B prescribe the development standards for Residential Zones. Section numbers refer to other sections of the Ordinance, while individual letters refer to subsections that directly follow the tables. Additional regulations that apply throughout the City are located in Division III, Citywide Regulations.

TABLE 28.04.030.A: DEVELOPMENT STANDARDS-RESIDENTIAL SINGLE UNIT ZONES						
Zone (Formerly)	RS-1A (A-1)	RS-25 (A-2)	RS-15 (E-1)	RS-10 (E-2)	RS-7.5 (E-3)	RS-6 (R-1)
Lot and Density						
Minimum Lot Size (sq. ft. unless noted)						
Average Slope less than 10% and all lots with frontage on the Pacific Ocean, regardless of slope	1 acre	25,000	15,000	10,000	7,500	6,000
Average Slope 10% to 20%	1.5 acre	37,500	22,500	15,000	11,250	9,000
Average Slope over 20% to 30%	2 acres	50,000	30,000	20,000	15,000	12,000
Average Slope over 30%	3 acres	75,000	45,000	30,000	22,500	18,000
Minimum Public Street Frontage (ft.)	100 or 1/3 lot depth, whichever is greater	100	90	75	60	60
	See also §TBD, Street Frontage and Access					

TABLE 28.04.030.A: DEVELOPMENT STANDARDS-RESIDENTIAL SINGLE UNIT ZONES						
Zone (Formerly)	RS-1A (A-1)	RS-25 (A-2)	RS-15 (E-1)	RS-10 (E-2)	RS-7.5 (E-3)	RS-6 (R-1)
Maximum Floor Area (Floor to Lot Area Ratio) (sq. ft.)	Applicable only to lots developed, or proposed to be developed, with a building with two or more stories or 17 feet or more in height.					
Less than 4,000 sq. ft. Net Lot Area	2,200, see also (A), Floor Area, Precluded Development-RS Zones					
4,000 to 9,999 sq. ft. Net Lot Area	1,200 plus (.25 multiplied by the net lot area), see also (A), Floor Area, Precluded Development-RS Zones					
10,000 to 14,999 sq. ft. Net Lot Area	2,500 plus (.125 multiplied by the net lot area), see also (A), Floor Area, Precluded Development-RS Zones					
15,000 and more sq. ft. Net Lot Area	Not Applicable					
Density (units/lot)	1	1	1	1	1	1
	See §TBD, Additional Dwelling Units and §TBD, Secondary Dwelling Units					
Minimum Residential Unit Size	See §TBD, Residential Unit					
Building Form and Location						
Maximum Height (ft.)	30, except as further limited in accordance with Section TBD, Solar Access Height Limit					
Minimum Setbacks (ft.)	See also §TBD, Encroachments into Setbacks and Open Yards					
Front, Residential Building	35	30	30	25	20	1 st Story: 15; Portions of buildings above 1 st story and street facing garages and carports: 20
	See also (B), Setback Reduction for Sloping Lots					
Interior, Residential Building	15	10	10	8	6	5
Non-Residential Buildings	The required setback for non-residential buildings is double the setback required for residential buildings.					
Uncovered Parking	See §TBD, Location of Required Parking					
Materials	Roofing and siding materials shall be nonreflective. Shiny, mirror like, or glossy metallic finishes are prohibited.					
Open Yard and Lot Coverage						
Open Yards	See §TBD, Open Yards					
Maximum Lot Coverage, Non-Residential Buildings (% of lot area)	25	25	25	25	25	25

TABLE 28.04.030.B: DEVELOPMENT STANDARDS-TWO-UNIT AND MULTI-UNIT ZONES			
Zone (Formerly)	R-2 (R-2)	R-M (R-3)	R-MH (R-4)
Lot Size and Street Frontage			
Minimum Lot Size			
Average Slope less than 10%	7,000	14,000	14,000
Average Slope 10% to 20%	10,500		
Average Slope over 20% to 30%	14,000		
Average Slope over 30%	21,000		
Minimum Public Street Frontage	60	60	60
	See §TBD, Street Frontage and Access		
Maximum Base Density			
Lots less than 5,000 Square Feet	1 unit	1 unit	
Lots 5,000 to 5,999 Square Feet	1 unit	2 units	
Lots 6,000 Square Feet to 6,999 Square Feet	2 units if average slope less than 10%, 1 unit otherwise	2 units	
Lots 7,000 Square Feet or Larger			
Average Slope less than 10%	1 unit/3,500 sq. ft. of lot area	3 units, or 1 unit/3,500 sq. ft. of lot area, whichever is greater	
Average Slope 10% to 20%	1 unit/5,250 sq. ft. of lot area		
Average Slope over 20% to 30%	1 unit/7,000 sq. ft. of lot area		
Average Slope over 30%	1 unit/10,500 sq. ft. of lot area		
Additional Density Allowances			
All lots, in compliance with the applicable section	See §TBD, Accessory Dwelling Unit	See §TBD, Variable Density in Certain Zones See §TBD, Average Unit Size Density Incentive Program See §TBD, Density Bonus and Development Incentives	
Building Form and Location			
Minimum Residential Unit Size	See §TBD, Residential Unit		
Maximum Height (ft.)	30	45	45
	Except as further limited in accordance with Section TBD, Solar Access Height Limit		

TABLE 28.04.030.B: DEVELOPMENT STANDARDS-TWO-UNIT AND MULTI-UNIT ZONES			
Zone (Formerly)	R-2 (R-2)	R-M (R-3)	R-MH (R-4)
Minimum Setbacks (ft.)	See also §TBD, Encroachments into Setbacks and Open Yards See §TBD, Average Unit Size Density Incentive Program		
Front, Residential Buildings	1 st Story: 15; Portions of buildings above 1st story and street facing garages and carports: 20 See also (B), Setback Reduction for Sloping Lots	1st and 2nd Stories: 10 Portions of buildings above 2nd story : 20	
		Garages and Carports; 10 Garages and Carports, Street-Facing: 20	
Interior, Residential Buildings	Garages and carports: 3 Other buildings: 6	1st and 2 nd Stories: 6 Portions of buildings above 2nd story: 10	
		<u>Garages and carports:</u> <ul style="list-style-type: none">• Lots with one or two units: 3• Lots with three or more units: 6 except as provided in (C), Interior Garage and Carport Setback Reduction for Lots 55-Feet or Less and (D) Interior Garage and Carport Setback Opposite the Primary Front Lot Line	
Non-Residential Buildings	The required setback for non-residential buildings is double the setback required for residential buildings and uses.		
Hotel Conversions	N/A	Conversions of existing residential buildings to hotels or remodels of existing buildings that contain hotels are subject to the setback requirements for residential buildings. New hotel buildings and additions to existing hotels are subject to double the residential setback requirement.	
Uncovered Parking	See §TBD, Location of Required Parking		
Open Yard and Lot Coverage			
Open Yards	See §TBD, Open Yards See §TBD, Average Unit Size Density Incentive Program		
Maximum Lot Coverage, Non-Residential Buildings (% of lot area)	25	25. Conversions of existing residential structures to hotels or remodels of existing buildings that contain hotels are exempt from the lot coverage limitation. New buildings and additions are subject to lot coverage limitations.	

Additional Residential Zone Development Regulations

- A. **Floor Area, Precluded Development-RS Zones.** No application for a building permit may be approved for a project in an RS Zone that will: (1) result in an increase of the floor area on the lot, (2) change the location of any floor area on the second or higher story of any building on the lot, or (3) increase the height of any portion of a building on the lot to 17 feet or higher if any of the following will occur:
1. The floor area will exceed the allowable maximum floor area for the lot, or
 2. The floor area will exceed 85 percent of the allowable maximum floor area and any of the following apply.
 - a. The average slope of the lot or the building site is 30 percent or greater;
 - b. The height of any building or structure on the lot is more than 25 feet; or
 - c. The lot is located in the Hillside Design District and 500 or more cubic yards of grading is proposed to occur outside the footprint of the main building. Soil located within five feet of an exterior wall of a main building that is excavated and re-compacted shall not be included in the calculation of the volume of grading outside the building footprint.
- B. **Setback Reduction for Sloping Lots.**
1. **Residential Single Unit Zones.** In Residential Single Unit zones, where the average natural slope of the front half of a lot is more than 20 percent slope, the required front building setback for all stories is reduced by five feet.
 2. **R-2 Zone.** In the R-2 Zone, where the average natural slope of the front half of a lot is more than 20 percent slope, the required front building setback for all stories is 10 feet.
- C. **Interior Garage and Carport Setback Reduction for Lots 55-Feet or Less.** The required interior setback for garages and carports on lots in the R-M and R-MH zone less than 55 feet in width and developed with three or more units may be reduced to three feet by the appropriate design review body provided the garage or carport opening does not face a street and the interior depth of the garage or carport does not exceed 20 feet.
- D. **Interior Garages and Carport Setback Opposite the Primary Front Lot Line.** The required interior setback for garages and carports on lots in the R-M and R-MH zone developed with three or more units may be reduced to three feet on the lot line opposite the primary front lot line.

Chapter 28.05 Commercial and Office Zones

28.05.010 Purpose

See Module 1

28.05.020 Land Use Regulations

See Module 1

28.05.030 Development Standards

Table 28.05.030 prescribes the development standards for Commercial and Office Zones. Section numbers refer to other sections of the Ordinance, while individual letters refer to subsections that directly follow the table. Additional regulations that apply throughout the City are located in Division III, Citywide Regulations.

TABLE 28.05.030: DEVELOPMENT STANDARDS-COMMERCIAL AND OFFICE ZONES				
Zone (Formerly)	O-R (R-O)	O-M (C-O)	C-R (C-P)	C-G (C-2)
Lot and Density				
Minimum Lot Size	None			
Minimum Public Street Frontage	None, See §TBD, Street Frontage and Access			
Maximum Base Residential Density				
Lots less than 5,000 Square Feet	1 unit			
Lots 5,000 to 6,999 Square Feet	2 units			
Lots 7,000 Square Feet or Larger	3 units, or 1 unit/3,500 sq. ft. of lot area, whichever is greater			
Additional Density Allowances	See §TBD, Variable Density in Certain Zones See §TBD, Average Unit Size Density Incentive Program			
Building Form and Location				
Minimum Residential Unit Size	Studio: 220 square feet; All other units: 400 square feet See §TBD, Residential Unit			
Maximum Height (ft.)	45	45	45	45; 60 for Community Benefit Project or Community Benefit Housing Project (§TBD) See also (A), Theater Additions

TABLE 28.05.030: DEVELOPMENT STANDARDS-COMMERCIAL AND OFFICE ZONES				
Zone (Formerly)	O-R (R-O)	O-M (C-O)	C-R (C-P)	C-G (C-2)
Adjacent to RS or R-2 Zone	For all portions of the building located within 20 feet of a RS or R-2 zone, the maximum height is 30 ft. This limit is not applicable to Community Benefit Projects or Community Benefit Housing Projects.			
Additional Height Limitations Adjacent to all Residential Zones	Height is further limited in accordance with §TBD, Solar Access Height Limit			
Minimum Setbacks (ft.)	See also §TBD, Encroachments into Setbacks and Open Yards See §TBD, Average Unit Size Density Incentive Program			
Front	<u>Residential only structures:</u> Same as R-M Zone <u>Nonresidential and Mixed-Use structures:</u> <ul style="list-style-type: none">1st and 2nd Stories: 10Portions of buildings above 2nd story: 20			<u>Residential only structures:</u> Same as R-M Zone <u>Nonresidential and Mixed-Use structures:</u> 0
Interior, Adjacent to a Non-Residential Zone	<u>Residential only structures:</u> Same as R-M Zone <u>Nonresidential and Mixed-Use structures:</u> <ul style="list-style-type: none">1st and 2nd Stories: 6Portions of buildings above 2nd story: 10		<u>Residential only structures:</u> Same as R-M Zone <u>Nonresidential and Mixed-Use structures:</u> 0	
Interior, Adjacent to a Residential Zone	<u>Residential only structures:</u> Same as R-M Zone <u>Nonresidential and Mixed-Use structures:</u> 15			
Uncovered Parking	See §TBD, Location of Required Parking			
Open Yard				
Open Yards and Outdoor Living Space	Any lot developed with residential uses shall provide outdoor living space in accordance with the provisions of the R-M Zone. See §TBD, Average Unit Size Density Incentive Program			

Additional Commercial and Office Zone Development Regulations

- A. **Theater Additions.** A stage addition to a live performance theater shall not be considered as part of the height of the building under the following circumstances:
- The stage addition is devoted solely to rigging fly systems,
 - The addition is made to a theater that existed as of December 31, 2003, and
 - The stage addition does not exceed the height of the theater as such theater existed on December 31, 2003.

Chapter 28.06 Manufacturing Zones

28.06.010 Purpose

See Module 1

28.06.020 Land Use Regulations

See Module 1

28.06.030 Development Standards

Table 28.06.030 prescribes the development standards for Manufacturing Zones. Section numbers refer to other sections of the Ordinance. Additional regulations that apply throughout the City are located in Division III, Citywide Regulations.

TABLE 28.06.030: DEVELOPMENT STANDARDS-MANUFACTURING ZONES		
Zone (Formerly)	M-C (C-M)	M-I (M-I)
Lot and Density		
Minimum Lot Size	None	
Minimum Public Street Frontage	None, See §TBD, Street Frontage and Access	
Maximum Residential Base Density		
<i>Lots less than 5,000 Square Feet</i>	1 unit	One Caretaker Unit
<i>Lots 5,000 to 6,999 Square Feet</i>	2 units	
<i>Lots 7,000 Square Feet or Larger</i>	3 units, or 1 unit/3,500 sq. ft. of lot area, whichever is greater	
Additional Density Allowances	See §TBD, Variable Density in Certain Zones See §TBD, Average Unit Size Density Incentive Program	None applicable
Building Form and Location		
Maximum Height (ft.)	45; 60 for Community Benefit Project or Community Benefit Housing Project (§TBD)	
<i>Adjacent to RS or R-2 Zone</i>	For all portions of the building located within 20 feet of a RS or R-2 zone, the maximum height is 30 feet. This limit is not applicable to Community Benefit Project or Community Benefit Housing Projects.	
<i>Additional Height Limitations Adjacent to all Residential Zones</i>	Height is further limited in accordance with §TBD, Solar Access Height Limit	

TABLE 28.06.030: DEVELOPMENT STANDARDS-MANUFACTURING ZONES		
Zone (Formerly)	M-C (C-M)	M-I (M-I)
Minimum Setbacks (ft.)	See also §TBD, Encroachments into Setbacks and Open Yards See §TBD, Average Unit Size Density Incentive Program	
Front	<u>Residential only structures:</u> Same as R-M Zone <u>Nonresidential and Mixed-Use Buildings:</u> 0	
Interior, Adjacent to a Non-Residential Zone	<u>Residential only structures:</u> Same as R-M Zone <u>Nonresidential and Mixed-Use Buildings:</u> 0	
Interior, Adjacent to a Residential Zone	<u>Residential only structures:</u> Same as R-M Zone <u>Nonresidential and Mixed-Use Buildings:</u> 15	
Uncovered Parking	See §TBD, Location of Required Parking	
Open Yard		
Open Yards and Outdoor Living Space	Any lot developed with residential use shall provide outdoor living space in accordance with the provisions of the R-M Zone. See §TBD, Average Unit Size Density Incentive Program	

Overlay Zones

Where Overlay Zone provisions are silent regarding matters otherwise governed by other standards of the Zoning Ordinance, the standards of the Zoning Ordinance shall apply. In any case of conflict, the more restrictive standards shall apply.

Chapter 28.09 Auto, Commercial, and Services (AC) Overlay Zone

28.09.010 Purpose

The Auto, Commercial, and Services (AC) Overlay Zone is intended to provide areas for auto related uses, including the sales of new automobiles and vehicles, as well as commercial and service uses in planned centers. Uses and restrictions other than those contained in other zone districts may be appropriate due to one or more of the following circumstances: unusual topographic conditions; proximity to public parks, buildings, major traffic corridors, bodies of water, watercourses, open spaces, and other similar improvements or land features; disparity between adjacent zoning district warranting special features to protect the more restrictive district; or the suitability of a special or unique land use.

28.09.020 Applicability

The provisions of this Chapter apply to properties located within or proposed to be located within the AC Overlay Zone mapped on the Official Zoning Map.

28.09.030 Land Use Regulations

In addition to the uses allowed in the applicable base zone the following uses are permitted:

A. Public and Semi-Public Uses

1. Colleges and Trade Schools
2. Community Assembly
3. Cultural Institutions
4. Hospitals
5. Instructional Services
6. Public Facilities
7. Schools

B. Commercial Uses

1. Automobile/Vehicle Sales and Services

2. Banks and Financial Institutions
 3. Commercial Entertainment and Recreation
 4. Eating and Drinking Establishments, Full Service and Convenience
 5. Hotel
 6. Offices, Business and Professional
 7. Parking, Public or Private
- C. **Industrial Uses**
1. Automobile and Vehicle Repair, Major, conducted entirely within an enclosed building
 2. Commercial Vehicle and Equipment Sales and Rental
 3. Research and Development
 4. Warehousing and Storage
 - a. Outdoor Storage for recreational vehicles
 - b. Personal Storage

28.09.040 Development Standards

- A. **Required Front Setback.** All buildings, structures and parking shall be setback from front lot lines a minimum of 10 feet.
- B. **Height Limitations.** Buildings and structures shall not exceed 45 feet in height.
- C. **Parking.** Parking shall be provided pursuant to Chapter TBD, Off-Street Parking and Loading.
- D. **Other Development Standards.** Other development standards, including but not limited to, interior setbacks, lot coverage, lot area, street frontage, hours and manner of operation, lighting, and landscaping, shall be as prescribed by the Precise Plan approved with the AC Overlay District.

28.09.050 Procedures

- A. **Review Procedures.**
1. **Zoning Amendment.** An application for a classification as an AC Overlay Zone shall be processed as an amendment to the Zoning Map, according to the procedures of Chapter TBD, Amendments to Zoning Ordinance and Map, and shall include a Precise Plan.
 2. **Precise Plan.** The Precise Plan shall be accepted and processed pursuant to Chapter TBD.
- B. **Expiration.** A Precise Plan shall be effective on the same date as the ordinance creating the AC District for which it was approved and shall expire four years after the

effective date unless actions specified in the conditions of approval have been taken, a building permit has been issued and construction diligently pursued, or a time extension pursuant to Section TBD, Extensions, has been approved. An approved Precise Plan may specify a development staging program exceeding four years.

28.09.060 Project Review

Plans for a project in an AC Overlay Zone shall be accepted for planning and building permits or subdivisions only if they are consistent with an approved Precise Plan and any conditions of approval. No project may be approved and no building permit issued unless the project, alteration or use is consistent with an approved Precise Plan.

Chapter 28.10 Coastal (CZ) Overlay Zone

28.10.010 Purpose

The Coastal (CZ) Overlay Zone is established for the purpose of implementing the Coastal Act of 1976 (Division 20 of the California Public Resources Code) and to ensure that all public and private development in the Coastal Zone of the City of Santa Barbara is consistent with the City's Certified Local Coastal Program and the Coastal Act.

28.10.020 Applicability

The CZ Overlay Zone is applied to the "Coastal Zone" which is generally defined as land within 1,000 yards from the mean high tide line as established by the Coastal Act which lies within the City of Santa Barbara (including the Santa Barbara Airport), as shown on the Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Santa Barbara.

- A. Any person (including the City, any utility, state or local government, or special district or any agency thereof) wishing to perform or undertake any development within the Coastal Zone of the City of Santa Barbara shall comply with the provisions of this Chapter.
- B. If there is a conflict between a provision of the City of Santa Barbara Local Coastal Program (including the Land Use Plan and the Coastal Overlay Zone Ordinance) and a provision of the General Plan or any other City-adopted plan, resolution or ordinance not included in the City of Santa Barbara Local Coastal Program, and it is not possible for the proposed development to comply with both the Local Coastal Program and such other plan, resolution or ordinance, the Local Coastal Program shall take precedence and the development shall not be approved unless it complies with the Local Coastal Program provision.

28.10.030 Permit Required

In addition to any other required permits or approvals, a Coastal Development Permit pursuant to Section TBD, Coastal Development Permit, shall be required prior to commencement of any development in the CZ Overlay Zone unless specifically excluded or exempted pursuant to Section 28.10.040, Exclusions and Exemptions, or conducted pursuant to an Emergency Permit in accordance with Section 28.10.050, Emergency Permits.

28.10.040 Exclusions and Exemptions

- A. **Exclusions Pursuant to Exclusions Order.** The following categories of development are categorically excluded from the Coastal Development Permit requirements of this Ordinance pursuant to Categorical Exclusion Order E-86-03 as amended by Categorical Exclusion Order E-06-1 and certified by the California Coastal Commission:

1. ***Time-Share Conversion Exclusion.*** Any activity anywhere in the Coastal Zone that involves the conversion of any existing multiple-unit residential structure to a time-share project, estate, or use, as defined in Section 11212 of the Business and Professions Code. If any improvement to an existing structure is otherwise exempt from the permit requirements of this division, no Coastal Development Permit shall be required for that improvement on the basis that it is to be made in connection with any conversion exempt pursuant to this subdivision. The division of a multiple-unit residential structure into condominiums, as defined in Section 783 of the Civil Code, shall not be considered a time-share project, estate, or use for purposes of this subdivision.
 2. ***Vested Rights Exclusion.*** Any development which has a valid approval from the Coastal Commission shall be considered to have a vested right until such time as said approval expires or lapses; provided, however, that no substantial change may be made in any such development without prior Coastal Commission and City approval having been obtained by the developer.
 3. ***Single Unit Residence Exclusions.***
 - a. Construction of one single unit residence on an existing vacant parcel in the area designated as Non-Appealable on the Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Santa Barbara.
 - b. Demolition and reconstruction of an existing single unit residence in the area designated as Non-Appealable on the Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Santa Barbara. Notwithstanding the exclusion specified in this paragraph, a Coastal Development Permit shall be required if an application for demolition and reconstruction of an existing single unit residence is submitted for a lot that:
 - i. Contains a City Landmark or Structure of Merit,
 - ii. Contains or is within 100 feet of archeological or paleontological resources, or
 - iii. Contains or is within 100 feet of an environmentally sensitive habitat area, stream, wetland, marsh, or estuary, regardless of whether such resources are mapped or unmapped.
- B. **Exemptions Pursuant to State Law.** The following categories of development are exempt from the Coastal Development Permit requirements of this Ordinance pursuant to Section 30610 of the Public Resource Code and Sections 13250-13253 of Title 14 of the California Administrative Code.
1. ***Single Unit Residence Exemption.*** Improvements to existing single unit residences; provided, however, that those improvements which involve a risk of adverse environmental effect shall require a Coastal Development Permit, as provided in Section 13250 of Title 14 of the California Administrative Code, as amended from time to time.

2. ***Other Construction Exemption.*** Improvements to any structure other than a single unit residence or a public works facility; provided, however, that those improvements which involve a risk of adverse environmental effect; or adversely affect public access; or result in a change in use contrary to any policy of the Coastal Act; shall require a Coastal Development Permit, as provided in Section 13253 of Title 14 of the California Administrative Code, as amended from time to time.
3. ***Maintenance of Navigation Channel Exemption.*** Maintenance dredging of existing navigation channels or moving dredged material from such channels to a disposal area outside the Coastal Zone, pursuant to a permit from the United States Army Corps of Engineers.
4. ***Repair or Maintenance Exemption.*** Repair or maintenance activities that do not result in an addition to, or enlargement or expansion of the object of such repair or maintenance activity; provided, however, that extraordinary methods of repair and maintenance that involve a risk of substantial adverse environmental impact shall require a Coastal Development Permit, as provided in Section 13252 of Title 14 of the California Administrative Code, as amended from time to time.
5. ***Utility Connections Exemption.*** The installation, testing and placement in service or the replacement of any necessary utility connection between an existing service facility and any development approved pursuant to the California Coastal Act of 1976 and this Chapter, provided that the Community Development Director may, where necessary, require reasonable conditions to mitigate any adverse impacts on coastal resources, including scenic resources.
6. ***Replacement of Existing Structures Destroyed by Natural Disaster Exemption.*** The replacement of any structure, other than a public works facility, destroyed by a disaster. The replacement structure shall conform to applicable existing zoning requirements, shall be for the same use as the destroyed structure, shall not exceed either the floor area, height, or bulk of the destroyed structure by more than 10 percent, and shall be sited in the same location on the affected property as the destroyed structure.
 - a. "Disaster" means any situation in which the force or forces which destroyed the structure to be replaced were beyond the control of its owner.
 - b. "Bulk" means total interior cubic volume as measured from the exterior surface of the structure.
 - c. "Structure" includes landscaping and any erosion control structure or device which is similar to that which existed prior to the occurrence of the disaster.
7. ***Temporary Event Exemption.***
 - a. ***Temporary Event.*** A temporary event is an activity or use that constitutes development as defined in Section 30106 of the California Coastal Act;

and is an activity or function of limited duration; and involves the placement of non-permanent structures; and/or involves exclusive use of a sandy beach, parkland, filled tidelands, water, streets or parking area which is otherwise open and available for general public use.

- i. Exclusive Use. A use that precludes public uses in the area of the temporary event for recreation, beach access or access to coastal waters other than for or through the temporary event itself.
 - ii. Limited Duration. A period of time that does not exceed a two-week period on a continual basis, or does not exceed a consecutive four-month period on an intermittent basis.
 - iii. Non-permanent Structure(s). Include, but are not limited to, bleachers, perimeter fencing, vendor tents/canopies, judging stands, trailers, portable toilets, sound/video equipment, stages, booths, platforms, movie/film sets, which do not involve grading or landform alteration for installation.
 - iv. Coastal Resources. Include, but are not limited to, public access opportunities, visitor and recreational facilities, water-oriented activities, marine resources, biological resources, environmentally sensitive habitat areas, agricultural lands, and archaeological or paleontological resources.
 - v. Sandy Beach Area. Includes publicly-owned and privately-owned sandy areas fronting on coastal waters, regardless of the existence of potential prescriptive rights or a public trust interest.
- b. *General Rule.* Every temporary event is exempted from the Coastal Development Permit requirements under this Ordinance, unless the temporary event meets all of the following criteria and is not otherwise exempted pursuant to subparagraph c. below.
- i. The event is to be held between Memorial Day weekend and Labor Day, inclusive; and,
 - ii. The event occupies all or a portion of a sandy beach area; and,
 - iii. The event involves a charge for general public admission or seating where no fee is currently charged for use of the same area (not including booth or entry fees).
- c. *Other Exemptions.* The Community Development Director may also exempt a temporary event that satisfies all of the criteria specified in subparagraph b. above, if:
- i. The fee is for preferred seating only and 75 percent of the provided seating capacity is available free of charge for general public use;

- ii. The event is held on a sandy beach area in a remote location with minimal demand for public use, and there is no potential for adverse effect on sensitive coastal resources;
 - iii. The event is less than one day in duration; or,
 - iv. The event has previously received a Coastal Development Permit and will be held in the same location, at a similar season, and for a similar duration, with operating and environmental conditions substantially the same as those associated with the previously-approved event.
 - d. *Special Circumstances.* The Community Development Director, or the Planning Commission or City Council through direction to the Community Development Director, may determine that a temporary event shall require a Coastal Development Permit, even if the criteria specified in subparagraph b above are not met, if the Community Development Director determines that unique or changing circumstances exist relative to the particular temporary event that have the potential for significant adverse impacts on coastal resources. Such circumstances may include, but shall not be limited to, the following:
 - i. The event, either individually or together with other temporary events scheduled before or after the particular event, precludes the general public from use of a public recreational area for a significant period of time;
 - ii. The event and its associated activities or access requirements will either directly or indirectly impact environmentally sensitive habitat areas, rare or endangered species, significant scenic resources, or other coastal resources as defined in Paragraph 1 above;
 - iii. The event is scheduled between Memorial Day weekend and Labor Day and would restrict public use of roadways or parking areas or otherwise significantly impact public use or access to coastal waters; or
 - iv. The event has historically required a Coastal Development Permit to address and monitor associated impacts to coastal resources.
- C. **Record of Categorical Exclusion Determinations.** The Community Development Department shall maintain a record of all determinations made which shall be made available to the Coastal Commission or any interested person upon request. This record must include the applicant's name, the location of the project, a brief description of the project, the site plan, the date upon which the determination was made, and all terms and conditions imposed by the City in granting its approval. Notice of each exclusion determination shall be made to the Coastal Commission within five working

days of the determination by the Community Development Department. The City is not required to give the Coastal Commission notice of exemption determinations.

28.10.050 Emergency Permits

The Community Development Director may issue an Emergency Permit without compliance with the procedures for the issuance of a Coastal Development Permit in cases of an emergency, as the term emergency is defined in Section 13009 of Title 14 of the California Administrative Code. Where persons or public agencies seek a permit for emergency work pursuant to Section 30624 of the California Public Resources Code, the following procedures shall apply:

- A. **Application.** Applications for permits for emergency work shall be made to the Community Development Director by letter or facsimile during business hours if time allows, or by telephone or in person if time does not allow. The information to be reported during the emergency, if it is possible to do so, or to be reported fully in any case after the emergency, shall include the following:
 - 1. The nature of the emergency;
 - 2. The cause of the emergency, insofar as this can be established;
 - 3. The location of the emergency;
 - 4. The remedial, protective, or preventive work required to deal with the emergency;
 - 5. The circumstances during the emergency that appeared to justify the course(s) of action taken, including the probable consequences of failing to take action;
 - 6. The identity of other public agencies alerted to the emergency;
 - 7. Access routes to the emergency; and,
 - 8. Any other information deemed necessary by the Community Development Director.
- B. **Verification of Emergency.** The Community Development Director shall verify the facts, including the existence and nature of the emergency, insofar as time allows.
- C. **Coordination and Public Notice.** Prior to issuance of an Emergency Permit, when feasible, the Community Development Director shall notify, and coordinate with, the South Central Coast District Office of the California Coastal Commission as to the nature of the emergency and the scope of the work to be performed. This notification shall be in person or by telephone. The Community Development Director shall provide public notice of the proposed emergency action required by Section 13329.3 of Title 14 of the California Administrative Code, with the extent and type of notice determined on the basis of the nature of the emergency itself.

- D. **Issuance.** The Community Development Director may grant a permit for emergency work upon reasonable terms and conditions, including an expiration date and the requirement for a regular permit application later, if the Community Development Director finds that:
1. An emergency exists and requires action more quickly than permitted by the procedures for ordinary permits, and the development can and will be completed within 30 days unless otherwise specified by the terms of the permit;
 2. Public comment on the proposed emergency action has been reviewed if time allows;
 3. The work proposed would be consistent with the requirements of the City's Local Coastal Program and the California Coastal Act of 1976;
 4. The work proposed is the minimum action necessary to address the emergency and, to the maximum extent feasible, is the least environmentally damaging temporary alternative for addressing the emergency. This finding shall be made with the maximum information and analysis possible given the expedited review demanded by the emergency situation; and
 5. The Community Development Director shall not issue an Emergency Permit for any work that falls within the provisions of Public Resources Code Section 30519(b) since a Coastal Development Permit application for this type of work must be reviewed by the California Coastal Commission pursuant to the provisions of Public Resources Code Sections 30519(b) and 30600(d).
- E. **Format of Permit.** The Emergency Permit shall be a written document that includes the following information:
1. The date of issuance;
 2. An expiration date;
 3. The scope of work to be performed;
 4. Terms and conditions of the permit. The Emergency Permit may contain conditions for removal of existing development or structures if they are not authorized in a Coastal Development Permit, or the Emergency Permit may require that a subsequent Coastal Development Permit must be obtained to authorize the removal of such existing unpermitted development or structures;
 5. A provision stating that within 90 days of issuance of the Emergency Permit, a Coastal Development Permit application shall be submitted and properly filed consistent with the requirements of this Chapter seeking authorization to retain structures erected pursuant to the Emergency Permit, to remove such structures, or some other alternative;
 6. A provision stating that any development or structures constructed pursuant to an Emergency Permit shall be considered temporary until authorized by a subsequent Coastal Development Permit and that issuance of an Emergency Permit shall not constitute an entitlement to the erection of permanent development or structures; and

7. A provision that states that the development authorized in the Emergency Permit must be removed unless a complete application for a Coastal Development Permit is filed within 90 days of approval of the Emergency Permit. If all or any portion of the application for the Coastal Development Permit seeking authorization for permanent retention of the development authorized pursuant to the Emergency Permit is denied, the portion of the development that is denied must be removed.
- F. **Notice to the Planning Commission.**
1. The Community Development Director shall report in writing to the Planning Commission at each meeting of the Commission the Emergency Permits applied for or issued since the last report. The report shall contain a description of the nature of the emergency and the work involved. Copies of this report shall be available at the meeting and shall have been mailed at the time the application summaries and staff recommendations are normally distributed to all persons who have requested such notification in writing. Copies of this report shall also be sent to the South Central Coast District Office of the California Coastal Commission.
 2. All Emergency Permits issued after completion of the agenda for the Planning Commission meeting shall be briefly described by the Community Development Director at the meeting and the written report required by Paragraph 1 above shall be distributed prior to the next meeting of the Planning Commission.
 3. The report of the Community Development Director shall be informational only. The decision to issue an Emergency Permit is solely at the discretion of the Community Development Director.

28.10.060 Development Within Coastal Commission Permit Jurisdiction

Development proposals which are located on lands identified as tidelands, submerged lands or public trust lands as identified on the Post-LCP Certification Permit and Appeal Jurisdiction Map, City of Santa Barbara, adopted by the Coastal Commission, shall, pursuant to the requirements of California Public Resources Code Section 30519(b), require a Coastal Permit from the Coastal Commission.

A. **Determination of Applicability.**

1. Upon submittal to the City of an application for a Coastal Development Permit, the Community Development Department shall determine if the development may be located on land identified as tidelands, submerged lands and/or public trust lands. Such determination shall be based upon maps and other descriptive information identifying such lands which the Coastal Commission and/or State Lands Commission may supply.
2. Upon a determination that the proposed coastal development involves such lands, the Community Development Department shall notify the applicant and

the Coastal Commission of the determination that a State Coastal Permit is required for the development.

- B. **Processing and Recommendation.** In conjunction with the City's review and decision on the development in accordance with the requirements of this Ordinance and other City codes, the City shall also make a recommendation to the Coastal Commission regarding the development's conformance with the certified Local Coastal Program. The City's determination of development conformance with the objectives and requirements of the Local Coastal Program shall be advisory only and not a final action. Development shall not proceed until the Coastal Commission grants a Coastal Permit for such a development.
1. ***Planning Commission Recommendation.*** If proposed development within the permit jurisdiction of the Coastal Commission requires discretionary review by the Planning Commission, the Planning Commission shall conduct a public hearing regarding the development's conformance with the certified Local Coastal Program. The public hearing shall be held concurrently with any other required public hearing or hearings for any other applications regarding the proposed development. Following approval of the development by the City, the Community Development Department shall forward the City approval, the application, supporting file documents and the City's recommendation regarding the issuance of the Coastal Development Permit to the Coastal Commission for its action on the Coastal Development Permit application.
 2. ***Staff Hearing Officer Recommendation.*** If proposed development within the permit jurisdiction of the Coastal Commission requires discretionary review by the Staff Hearing Officer, the Staff Hearing Officer shall conduct a public hearing regarding development's conformance with the certified Local Coastal Program. The public hearing shall be held concurrently with any other required public hearing or hearings for any other applications regarding the proposed development. Following approval of the development by the City, the Community Development Department shall forward the City approval, the application, supporting file documents and the City's recommendation regarding the issuance of the Coastal Development Permit to the Coastal Commission for its action on the Coastal Development Permit application.
 3. ***Community Development Department Recommendation.*** If the proposed development is within the permit jurisdiction of the Coastal Commission and does not require discretionary review by the Planning Commission or the Staff Hearing Officer, the Community Development Department shall review the proposed development's conformance with the certified Local Coastal Program and shall forward the application, supporting file documents and the Community Development Department's recommendation regarding the issuance of the Coastal Development Permit to the Coastal Commission for its action on the Coastal Development Permit application.

28.10.070 Supplemental Regulations

- A. **Development Within the Goleta Slough.** Any development within the Goleta Slough Reserve Zone is required to obtain a Goleta Slough Coastal Development Permit pursuant to the provisions of Chapter 29.25 unless specifically exempted.
- B. **Hazardous Waste Management Facilities.** Approval for construction or use of any off-site hazardous waste management facilities shall require preparation and approval of an amendment to the Local Coastal Program by the City Council and the California Coastal Commission. Such facilities shall also require approval of a change in zone to the HWMF Overlay Zone and any other required permits in accordance with this Ordinance.

Chapter 28.11 Hazardous Waste Management Facility (HWMF) Overlay Zone

Placeholder. *Currently Section 28.75 of the existing Zoning Ordinance. Substantive changes will not be made to these provisions. They will be formatted for consistency with the NZO structure and incorporated into the Final Hearing Draft.*

Chapter 28.12 Planned Unit Development (PUD) Overlay Zone

28.12.010 Purpose

The purpose of this Chapter is to establish a Planned Unit Development (PUD) Overlay Zone that provides for one or more properties to be developed under a plan that provides for better coordinated development and incorporates development standards crafted to respond to site conditions in order to:

- A. Provide flexibility in the development of residential properties with single-unit, duplex, and multi-unit housing types and provide desirable spatial relationships between buildings and structures on site.
- B. Encourage preservation and enhancement of natural beauty and the provision of landscaped open spaces for visual and recreational enjoyment.
- C. Allow for creative development projects that incorporate design features that provide greater amenities and open space than would likely result from conventionally planned development and subdivisions under strict adherence to ordinance requirements of the base zone.
- D. Ensure substantial compliance with and implement the land use and density policies of the General Plan and any applicable Specific Plan.

28.12.020 Zoning Map Designation

A PUD Overlay Zone shall be noted on the Zoning Map by the designation “PUD” followed by the maximum allowable density figure in dwelling units per acre. The PUD Overlay Zone is limited to properties within the RS Zones.

28.12.030 Land Use Regulations

In addition to the uses allowed in the applicable base zone the following uses are permitted.

- A. Planned unit development containing single-unit, duplex, and multi-unit housing types and accessory buildings and uses such as recreation facilities, parking lots, carports and garages, private and public parks, open spaces, and areas for public and private use.
- B. Large Family Day Care Homes.
- C. Other uses as required by State law.

28.12.040 Development Regulations

- A. **Residential Unit Density.** Except where a density bonus is granted in compliance with Chapter TBD, Density Bonus and Development Incentives or State Bonus Density (California Government Code §65915), the total number of dwelling units shall

- not exceed the maximum number of lots which could be developed by way of the usual subdivision procedure, utilizing the existing zoning on the property and all subdivision design requirements for the total area of the planned development designated for residential use, excluding areas devoted to public street rights-of-way. Recreation areas are considered part of the residential use of the property. The review authority may establish a maximum density for the Planned Unit Development that is less than the maximum density of the underlying base district.
- B. **Development Setback.** The following setbacks apply to the perimeter of the Planned Unit Development site.
1. **Front Setback.** The front setback at the perimeter of the Planned Unit Development site shall be twice the required front setback of the base zone.
 2. **Interior Setback.** There shall be interior setbacks of not less than 40 feet around the perimeter of the Planned Unit Development site.
- C. **Height Limitations.** Buildings and structures shall not exceed 30 feet in height.
- D. **Units Per Building.** No building shall contain more than four dwelling units.
- E. **Street Requirements.** In order to provide flexibility of development and to preserve natural terrain features and open spaces, Planning Commission may grant such modifications of City street design standards as may be deemed necessary to assure that the spirit and intent of this Chapter are observed and the public welfare and safety secured.
- F. **Landscape Buffer for Parking Areas and Driveways**
1. A landscaped area at least 10 feet wide shall be provided between any uncovered parking area or driveway and a property line.
 2. A landscaped island at least four feet in all interior dimensions shall be provided between every eight consecutive parking stalls. Each landscape island shall contain a tree.
- G. **Parking.** Two covered spaces shall be provided for each unit. One additional, uncovered, guest parking space shall be provided for every two dwelling units.
- H. **Open Space.** A minimum of 50 percent of the net area of the site shall be open space devoted to setbacks, planting, patios, walkways, and recreation areas. For purposes of this calculation, net area is defined as the gross site area less all land covered by buildings, streets, parking areas and access thereto.
1. Control of the design of open spaces is vested in the Planning Commission. Design shall mean size, shape, location and usability for proposed private, public or quasi-public purposes and development.
 2. Approval of such open spaces shall be restricted from further development.
 3. Planned unit developments shall be approved subject to the submission of a legal instrument or instruments setting forth a plan or manner of permanent care and maintenance of such open spaces, recreational areas and communally

owned facilities. No such instrument shall be acceptable until approved by the City Attorney as to legal form and effect.

28.12.050 Development Stages

If the construction of the development is to occur in stages, the required open space and/or recreational facilities shall be developed, or committed thereto, in proportion to the number of dwelling units intended to be developed during any given stage of construction as approved by the Planning Commission. At no time during the construction of the project shall the number of constructed dwelling units per acre of developed land exceed the overall density per acre established by the approved Precise Plan.

28.12.060 Security for the Maintenance of Open Space

As a guarantee of good faith for the maintenance of the required open space and/or recreational facilities, the developer shall furnish one of the securities described below, or combination thereof, as approved by City, in an amount equal to one 100 percent of the estimated cost of such work. Such work shall consist of satisfactorily installing and maintaining the required open space and/or recreational facilities for as long as the use they are intended to serve is maintained.

- A. Bond or bonds by one or more duly authorized corporate sureties.
- B. A deposit, either with the City or a responsible escrow agent or trust company, at the option of the City, of money or negotiable bonds of the kind approved for securing deposits of public moneys.
- C. An instrument of credit from one or more financial institutions subject to regulating by the State or Federal government and pledging that the funds necessary to carry out the act or agreement are on deposit and guaranteed for payment.

28.12.070 Procedures

A. Review Procedures.

- 1. **Concept Review.** Concept review by the Planning Commission is required prior to submittal of an application for a PUD Overlay Zone and Precise Plan.
 - a. A conceptual Precise Plan shall be submitted showing generalized development plans, including lot sizes and open spaces proposed, existing easements, existing neighborhood development, and any other information which may be reasonably required by the Community Development Director to aid and assist the Planning Commission in an initial consideration.
 - b. No formal action shall be taken by the Planning Commission regarding the concept plan. Any recommendations that result from preliminary

review shall be considered advisory only and shall not be binding on either the applicant or the City.

2. **Zoning Amendment.** An application for a classification as a PUD Overlay Zone shall be processed as an amendment to the Zoning Map, according to the procedures of Chapter TBD, Amendments to Zoning Ordinance and Map, and shall include a Precise Plan.
 3. **Precise Plan.** The Precise Plan shall be accepted and processed concurrently, in the same manner as a Conditional Use Permit application, pursuant to Chapter TBD, Common Procedures, and Chapter TBD, Use Permits.
 4. **Tentative Subdivision Map.** When an application for a PUD also requires the submission of a tentative subdivision map, this map and all supporting documents shall be prepared and submitted concurrently with the application of the PUD.
- B. **Required Findings.** A Precise Plan for a PUD shall only be approved if the following findings are made in addition to any other findings required by this Title:
1. The design of the development provides for appropriate visual and physical relationship between dwelling units.
 2. Landscaped open areas dominate the site development and provide substantial usable areas for passive and/or active recreational use.
 3. Public views of the site are those that provide a sense of landscaped, open areas. Parking areas and building masses do not dominate the public view of the site.
 4. The subject site is physically suitable for the type and intensity of the land use being proposed;
 5. The proposed development will not have a substantial adverse effect on surrounding land uses and will be compatible with the existing and planned land use character of the surrounding area; and
 6. The proposed development is demonstratively superior to the development that could occur under the standards applicable to the underlying base district, and will achieve superior design, environmental preservation and/or provision of open space.
- C. **Expiration.**
1. **Precise Plan.** A Precise Plan shall be effective on the effective date of the PUD Overlay Zone for which it was approved and shall expire four years after the effective date unless actions specified in the conditions of approval have been taken, a building permit has been issued and construction diligently pursued, or a time extension pursuant to Section TBD, Extensions, has been approved. An approved Precise Plan may specify a development staging program exceeding four years.

2. ***Tentative Map.*** Where a tentative map has been approved in conjunction with a Precise Plan, the Precise Plan shall expire upon the expiration of the tentative map.
3. ***Phased Development.*** In the event that the applicant intends to develop the project in phases, and the City Council approves phased development, the Precise Plan shall remain in effect so long as it is consistent with the approved phasing plan.

28.12.080 Project Review

Plans for a project in a PUD Overlay Zone shall be accepted for planning and building permits or subdivisions only if they are consistent with an approved Precise Plan and any conditions of approval. No project may be approved and no building permit issued unless the project, alteration or use is consistent with an approved Precise Plan.

Chapter 28.13 Research and Development (RD) Overlay Zone

28.13.010 Purpose

The Research and Development (RD) Overlay Zone is intended to provide areas for research and development activities that are developed and operated in a manner that is compatible in scale, intensity, traffic generation, and general character with surrounding uses and development. It is the intent of restrictions on allowed administrative office activities to prohibit the conduct of retail, wholesale, service, professional, or other business with the general public. These are activities which would cause a large increase in traffic to and from the facility. Necessary visits by service personnel and tradesmen, business calls, and other activities normal to a strictly administrative function are intended to be allowed.

28.13.020 Applicability

The provisions of this Chapter apply to properties located within or proposed to be located within the RD Overlay Zone mapped on the current Official Zoning Map.

28.13.030 Land Use Regulations

In addition to the uses allowed in the applicable base zone, the following uses are permitted provided all activities occur within an enclosed building and no business with the general public is conducted.

- A. Research and Development. Manufacturing activity is prohibited except for development of prototypes used for experimentation or research. A prototype is an original, model, or pattern from which manufactured, fabricated or assembled products are developed or copied.
- B. Accessory administrative offices only serving personnel working on-site.
- C. Incidental classes or training programs. The number of attendees shall not exceed 10 percent of the total number of employees regularly present on site.
- D. Radio and television transmitting and broadcasting stations pursuant to Section TBD, Telecommunications Facilities.

28.13.040 Minimum Site Area

The minimum area of an RD Overlay District is two acres. The City Council may require a larger area when necessary to meet the purpose and requirements of this Chapter.

28.13.050 Development Standards

- A. **Required Setbacks.** All buildings, structures and parking shall be setback from front lot lines and interior lot lines as follows:

1. **Front Setback:** 35 feet.
2. **Interior Setback:** 25 feet.
- B. **Height Limitations.** Buildings and structures shall not exceed 20 feet in height.
- C. **Lot Coverage.**
 1. A maximum of 25 percent of the lot may be covered with buildings and structures.
 2. A maximum of 30 percent of the lot may be covered by open parking, loading, delivery, turn-around areas, and driveways.
- D. **Street Frontage and Site Dimensions.** Each site shall have a minimum street frontage of 150 feet and minimum side dimension of 150 feet.
- E. **Landscaping.** All areas of the site not covered by buildings, structures, parking, driveways, or walkways shall be landscaped according to a landscape plan prepared by a licensed landscape architect or licensed landscape contractor and approved by the City Council.

28.13.060 Operational Standards

- A. **Operation Plan.** A plan for the operation of the research and development facility shall be submitted for approval.
- B. **Maximum Number of Employees.** The operation plan shall include a statement of the maximum number of employees to be present on the site at any one time. At no time shall the number of employees at the site exceed the maximum number approved in the Precise Plan.

28.13.070 Procedures

- A. **Review Procedures.**
 1. **Zoning Amendment.** An application for a classification as a RD Overlay Zone shall be processed as an amendment to the Zoning Map, according to the procedures of Chapter TBD, Amendments to Zoning Ordinance and Map, and shall include a Precise Plan.
 2. **Precise Plan.** The Precise Plan shall be accepted and processed concurrently, in the same manner as a Conditional Use Permit application, pursuant to Chapter TBD, Common Procedures, and Chapter TBD, Use Permits.
 - a. *Requirements, Regulations, Restrictions, and Limitations.* The Planning Commission may recommend and the City Council may adopt requirements, regulations, limitations and restrictions more restrictive than those specified elsewhere in this Ordinance, and designed to protect property values in the vicinity of the subject property and the public peace, health, safety and general welfare of persons residing, working in and passing through the neighborhood.

B. **Expiration.**

1. **Precise Plan.** A Precise Plan shall be effective on the same date as the ordinance creating the RD Overlay Zone for which it was approved and shall expire four years after the effective date unless actions specified in the conditions of approval have been taken, a building permit has been issued and construction diligently pursued, or a time extension pursuant to Section TBD, Extensions, has been approved. An approved Precise Plan may specify a development staging program exceeding four years.
2. **Phased Development.** In the event that the applicant intends to develop the project in phases, and the City Council approves phased development, the Precise Plan shall remain in effect so long as not more than one year lapses between the end of one phase and the beginning of the next phase.

28.13.080 Project Review

Plans for a project in a RD Overlay Zone shall be accepted for planning and building permits or subdivisions only if they are consistent with an approved Precise Plan and any conditions of approval. No project may be approved and no building permit issued unless the project, alteration or use is consistent with an approved Precise Plan.

Chapter 28.14 Resort Hotel (RH) Overlay Zone

28.14.010 Purpose

The Resort Hotel (RH) Overlay Zone is intended to provide an area for the development and operation of a resort hotel in a manner that is compatible with adjoining residential areas.

28.14.020 Applicability

The provisions of this Chapter apply to properties located within or proposed to be located within the RH Overlay Zone mapped on the Official Zoning Map and developed with a resort hotel.

- A. The RH Overlay Zone is limited to properties within the RS-15, RS-10, RS-7.5, RS-6, R-2, and R-M zones.
- B. Property within the RH Overlay District not developed with a resort hotel shall be subject to the provisions of the base zone.
- C. Property within the RH Overlay District shall be developed and used exclusively under the provisions of this Chapter or exclusively under the provisions of the base zone.

28.14.030 Land Use Regulations

The following uses are allowed in the RH Overlay Zone.

- A. **Resort Hotels.** Resort hotels, consisting of a main building which may contain guest rooms, and regularly maintained, customary and usual hotel facilities conducted for the convenience of the guests including, without limitation, restaurants, cocktail lounges, conference rooms, spa and fitness facilities, all of which have their main entrance from the lobby.
- B. **Guest Buildings.** Separate structures with guest rooms operated under the same ownership as the main resort hotel building.
- C. **Limitations.**
 - 1. Guest rooms include multi-room suites with one entrance. Rooms that can be rented separately shall be considered separate guest rooms.
 - 2. Up to six guest rooms in guest buildings may be equipped with kitchens.
 - 3. A single guest building shall not contain more than 12 bedrooms or more than six guest rooms with kitchens.
 - 4. A minimum of 50 percent of the total number of guest rooms shall be located in guest buildings.

28.14.040 Development Standards

- A. **Required Setbacks.** Buildings shall be setback from front and interior lot lines at least twice the required front setback of the base zone or 30 feet, whichever is greater.
- B. **Height Limitations.** Height limitations of the base zone apply.
- C. **Lot Coverage.**
 - 1. A maximum of 33-1/3 percent of the lot may be covered with buildings and structures, including parking structures, but exclusive of porches, balconies and patios.
 - 2. A maximum of 33-1/3 percent of the lot may be covered by open parking spaces, turn-around areas and driveways.
- D. **Guest Room Density.** The maximum number of guest rooms per acre is based on the base zone as follows.
 - 1. **RS-15:** 5 guest rooms/acre
 - 2. **RS-10:** 8 guest rooms/acre
 - 3. **RS-7.5:** 10 guest rooms/acre
 - 4. **RS-6:** 15 guest rooms/acre
 - 5. **R-2:** 20 guest rooms/acre
 - 6. **R-M:** 40 guest rooms/acre

28.14.050 Procedures

- A. **Review Procedures.**
 - 1. **Zoning Amendment** An application for a classification as a RH Overlay Zone shall be processed as an amendment to the Zoning Map, according to the procedures of Chapter TBD, Amendments to Zoning Ordinance and Map, and shall include a Precise Plan.
 - 2. **Precise Plan.** The Precise Plan shall be accepted and processed concurrently, in the same manner as a Conditional Use Permit application, pursuant to Chapter TBD, Common Procedures, and Chapter TBD, Use Permits.
 - a. *Requirements, Regulations, Restrictions, and Limitations.* The Planning Commission may recommend and the City Council may adopt requirements, regulations, limitations and restrictions more restrictive than those specified elsewhere in this Ordinance, and designed to protect property values in the vicinity of the subject property and the public peace, health, safety and general welfare of persons residing, working in and passing through the neighborhood.

B. **Expiration.**

1. **Precise Plan.** A Precise Plan shall be effective on the same date as the ordinance creating the RH Overlay Zone for which it was approved and shall expire four years after the effective date unless actions specified in the conditions of approval have been taken, a building permit has been issued and construction diligently pursued, or a time extension pursuant to Section TBD, Extensions, has been approved. An approved Precise Plan may specify a development staging program exceeding four years.
2. **Phased Development.** In the event that the applicant intends to develop the project in phases, and the City Council approves phased development, the Precise Plan shall remain in effect so long as not more than one year lapses between the end of one phase and the beginning of the next phase.

28.14.060 Project Review

Plans for a project in a RH Overlay Zone shall be accepted for planning and building permits or subdivisions only if they are consistent with an approved Precise Plan and any conditions of approval. No project may be approved and no building permit issued unless the project, alteration or use is consistent with an approved Precise Plan.

Chapter 28.15 San Roque Park Subdivision (SRP) Overlay Zone

28.15.010 Purpose

The San Roque Park Subdivision (SRP) Overlay Zone is intended to require front setbacks consistent to a deed restriction imposed at the time the San Roque Park Subdivision was created. The San Roque Park Subdivision was created in 1926, at which time a deed restriction was imposed requiring that buildings be set back at least 40 feet from the front property line. This restriction was in effect until 1941, at which time it expired. Development since 1941 has largely respected this increased front setback, in spite of the fact that the Zoning Ordinance requirements are less restrictive. A majority of the property owners in the San Roque Park Subdivision expressed the desire for the setbacks required by the Zoning Ordinance to conform with the original deed restrictions.

28.15.020 Applicability

The provisions of this Chapter apply to properties located within the San Roque Park Subdivision, which is located northerly of State Street between San Roque Road and Ontare Road and mapped as the SRP Overlay Zone on the Official Zoning Map

28.15.030 Front Setback

The required front setback within the SRP Overlay Zone is 40 feet except as provided below:

- A. **San Roque Road, Ontare Road, and Cannon Drive.** The required front setback abutting San Roque Road, Ontare Road, or the portion of Canon Drive where land on one side of the street is outside the SRP Overlay Zone is as required by the base zone.
- B. **Madrona Drive.** The required front setback abutting Madrona Drive is 30 feet.

Chapter 28.16 Senior Housing (SH) Overlay Zone

28.16.010 Purpose

The Senior Housing (SH) Overlay Zone is intended to provide areas for additional housing facilities for elderly persons of low and moderate incomes distributed throughout residential areas of the City.

28.16.020 Applicability

The provisions of this Chapter apply to properties located within or proposed to be located within the SH Overlay Zone mapped on the Official Zoning Map. The SH Overlay Zone is limited to properties within an RS or R-2 base zone.

28.16.030 Land Use Regulations

In addition to the uses allowed in the applicable base zone, housing developments for elderly persons, including accessory uses to serve the residents are permitted.

28.16.040 Development Standards

- A. **Height Limitations.** Height limitations of the base zone shall apply.
- B. **Number of Units and Buildings.**
1. **Maximum Units and Buildings per Development.** The maximum number of dwelling units and residence buildings in the development shall not exceed the following.

Base Zone	Number of Residence Buildings/Net Acre	Dwelling Units/Net Acre
RS-1A	0.8	3.2
RS-25	1.5	6.0
RS-15	2.3	9.2
RS-10	3.6	14.4
RS-7.5	4.6	18.4
RS-6	5.6	22.4
R-2	5.6	22.4
 2. **Maximum Units per Building.** The maximum number of units per building is four.
- C. **Floor Area.** The maximum floor area per building is 2,200 square feet exclusive of garages or carports.

- D. **Maximum Parking Spaces per Parking Area.** The maximum number of parking spaces provided in any single uncovered parking area is 10 spaces. A parking area containing spaces on both sides of a common aisle shall be counted as one parking area.
- E. **Garages and Carports.** The maximum number of parking spaces per garage or carport is three. Carports and garages shall be attached to and made a part of a main building.
- F. **Roof Design.** No more than 10 percent of the total number of buildings in a development shall have a flat roof. All other roofs shall be hipped or gabled.
- G. **Site Design.** All buildings shall be located on the site in a manner similar to the way residences might be located in the zone in which the property is located. For example, if PUD, they may be clustered; if single-unit, they should be laid out like a standard subdivision. Accessory non-residential uses shall be located and designed to serve residents only. To demonstrate this, the applicant shall submit, in rough form, a practical subdivision scheme of the property with the proposed buildings shown thereon. Lot sizes, frontages, street alignments, setbacks and all other aspects of such hypothetical subdivision shall be in accordance with applicable Zoning and Subdivision Ordinance requirements.

28.16.050 Agreement Required

In order to insure continued use of the development for affordable housing for elderly persons, prior to the approval of any Precise Plan for development under this Chapter, the applicant shall submit evidence satisfactory to the Planning Commission that an enforceable regulatory agreement exists to assure the continued operation of the facility for its intended use for not less than 30 years. The agreement shall be reviewed by the Office of the City Attorney. No variance, modification or other waiver to this Section shall be granted.

28.16.060 Procedures

- A. **Review Procedures.**
 - 1. **Zone Establishment** An application for a new classification as a SH Overlay Zone shall be processed as an amendment to the Zoning Map, according to the procedures of Chapter TBD, Amendments to Zoning Ordinance and Map, and shall include a Precise Plan.
 - 2. **Precise Plan.** The Precise Plan shall be accepted and processed concurrently, pursuant to Chapter TBD.
 - a. *Requirements, Regulations, Restrictions, and Limitations.* The Planning Commission may recommend and the City Council may adopt requirements, regulations, limitations and restrictions more restrictive than those specified elsewhere in this Ordinance, and designed to protect property values in the vicinity of the subject property and the public peace, health, safety and general welfare of persons residing, working in and passing through the neighborhood.

B. **Expiration.**

1. **Precise Plan.** A Precise Plan shall be effective on the same date as the ordinance creating the SH Overlay Zone for which it was approved and shall expire four years after the effective date unless actions specified in the conditions of approval have been taken, a building permit has been issued and construction diligently pursued, or a time extension pursuant to Section TBD, Extensions, has been approved. An approved Precise Plan may specify a development staging program exceeding four years.
2. **Phased Development.** In the event that the applicant intends to develop the project in phases, and the City Council approves phased development, the Precise Plan shall remain in effect so long as not more than one year lapses between the end of one phase and the beginning of the next phase.

28.16.070 Project Review

Plans for a project in a SH Overlay Zone shall be accepted for planning and building permits or subdivisions only if they are consistent with an approved Precise Plan and any conditions of approval. No project may be approved and no building permit issued unless the project, alteration or use is consistent with an approved Precise Plan.

Chapter 28.17 Upper State Street Area (USS) Overlay Zone

28.17.010 Purpose

The Upper State Street Area (USS) Overlay Zone is intended to limit traffic impacts and ensure appropriateness of development in the Upper State Street Area. State Street is the only major east-west surface street serving the Upper State Street Area and it is one of the most heavily traveled streets in the City. In order to prevent the volumes of traffic on State Street from exceeding acceptable limits and to limit increased air pollution due to vehicular traffic, it is necessary to impose the traffic related restrictions contained in this Section on new developments in the area.

28.17.020 Applicability

The provisions of this Chapter apply to properties located within the USS Overlay Zone mapped on the Official Zoning Map. The area is bounded by Alamar Avenue, U.S. Highway 101, Foothill Road and State Highway 154.

28.17.030 Development Standards

The following standards apply to all uses and development within the USS Overlay Zone.

- A. **Height Limitations.** Buildings and structures shall not exceed 45 feet.
- B. **Floor Area.** The maximum floor area shall be equal to the total gross floor area of a two-story building that could be constructed on the lot in compliance with all applicable zoning regulations for setbacks, open space, and parking.
- C. **Front Setbacks.** The required front setback is as follows:
 - 1. Portions of buildings and structures not exceeding 15 feet in height: 10 feet.
 - 2. Any portion of a building or structure more than 15 feet in height: 20 feet.
 - 3. Uncovered Parking: 10 feet, see TBD, Location of Required Parking.

Citywide Development Standards

Chapter 28.23 General Site Regulations

28.23.010 Purpose and Applicability

The purpose of this Chapter is to prescribe development and site regulations that apply, except where specifically stated, to development in all zones. These standards shall be used in conjunction with the standards for each base zone established in Division II, Zone Regulations. In any case of conflict, the more restrictive standards shall apply.

28.23.020 Accessory Buildings and Structures

- A. **Applicability.** The provisions of this Section apply to all detached accessory buildings and structures. Attached accessory structures consistent with Section TBD, Building Attachment, are considered part of the main building and are subject to all of the standards and regulations of the main building.
- B. **Relation to Existing Structures.** A detached accessory building may only be constructed on a lot on which there is a permitted main building to which the accessory building is related.
- C. **Setbacks.** Accessory buildings and structures shall comply with the minimum setback requirements of the base zone.
- D. **Height.** Accessory buildings and structures in Residential Zones shall not exceed two stories or 30 feet in height.
- E. **Front Yard Limitation.** In Residential Zones and lots developed solely with residential structures, all accessory buildings and structures, except garages and carports, shall be located outside the front yard.
- F. **Maximum Floor Area.**
 - 1. ***Lots Developed with a Single Residential Unit.*** In all zones, on lots developed with either a single residential unit, or a single residential unit and a Secondary Dwelling Unit, the maximum floor area for covered parking and accessory buildings is as follows:

TABLE 28.23.020: MAXIMUM FLOOR AREA, ACCESSORY BUILDINGS AND STRUCTURES-SINGLE RESIDENTIAL UNIT				
Lot Size	Maximum Floor Area (square feet)			
	Covered Parking	Accessory Buildings and Structures	Single Structure Containing Covered Parking and Accessory Floor Area	Total Accessory Building and Structure Floor Area Per Lot
Less than 20,000 square feet	500	500	1,000	1,000
20,000 square feet up to one acre	750	750	1,250	1,500
One acre up to three acres	1,000; maximum of 750 sq ft in a single structure	1,000; maximum of 750 sq ft in a single structure	1,250	2,000; maximum of 500 sq ft detached livable floor area
Three acres or larger	1,250; maximum of 750 sq ft in a single structure	1,250; maximum of 750 sq ft in a single structure	1,500	2,500; maximum of 500 sq ft detached livable floor area

2. ***Lots Developed with More than One Residential Unit.*** In all zones, on lots developed with more than one residential unit, the total aggregate floor area of individual garages and carports shall not exceed 500 square feet per residential unit; and the total aggregate floor area of all accessory buildings and structures shall not exceed 500 square feet per residential unit
- G. **Detached Guestrooms and Other Allowed Uses.** Accessory buildings may include but are not limited to buildings used as workshops, sheds, storage rooms, and livable floor area such as detached bedrooms, playrooms, or guestrooms, but shall not be considered a residential unit, provided that the accessory building contains a maximum of one freestanding utility sink or a half bath consisting of a toilet and a sink. No bathing facilities, no more than one sink, and no cooking facilities are allowed. Additional residential building elements may be permitted pursuant to a Performance Standard Permit, Chapter TBD.

28.23.030 Building Attachment

- A. **Required Minimum Connection.** Buildings and structures shall be considered attached when the buildings or structures meet the following minimum connection standards.
1. ***Enclosed Buildings and Structures.*** Enclosed buildings and structures shall be considered attached when the buildings or structures share a building wall or interior connection that meets one of the following standards:

- a. *Shared Building Wall.* The area of the wall common to both portions of the building or structure shall be a minimum of eight feet in both horizontal and vertical dimensions;
 - b. *Shared Floor to Ceiling Connection.* The area of the common floor to ceiling connection on multiple story buildings shall be a minimum of eight feet in horizontal and vertical dimensions;
 - c. *Shared Interior Connection.* The area of the interior connection between both portions of the building or structure shall be a minimum of seven feet in both horizontal and vertical dimensions;
 - d. *Combination of Shared Building Wall and Interior Connection.* The area of the combination of wall and interior connection common to both portions of the building or structure shall be a minimum of eight feet in both horizontal and vertical dimensions; or
 - e. *Combination of Shared Floor to Ceiling and Interior Connection.* The area of the combination of shared floor to ceiling and interior connection common to both portions of the building or structure shall be a minimum of eight feet in horizontal and vertical dimensions.
2. ***Unenclosed Buildings or Structures.*** Unenclosed buildings or structures, such as carports, patio covers, or similar, shall be considered attached when they share a common solid roof connection with a minimum dimension of eight feet. An unenclosed building or structure shall not be used to attach enclosed buildings and structures.
- B. **Buildings or Structures that do not meet the Required Minimum Connection.** If a building or structure does not meet the minimum connection standards of Subsection A above, the buildings or structures shall be considered separate buildings. If one or more of the buildings or structures is an Accessory Building, the standards and limitations described in Section TBD, Accessory Building and Structures shall apply.
 - C. **Mixed-Use Buildings.** In order to be considered a Mixed-Use Building, the residential portions and the nonresidential portions of the building, excluding nonresidential parking garage areas, must be attached by the minimum connection pursuant to Subsection A above. A building where the residential portion is attached only to a nonresidential parking garage and not a portion of the building occupied by nonresidential uses is not considered a Mixed-Use Building.

28.23.040 Exceptions to Height Limitations

- A. **Architectural Allowances.** Architectural elements that do not add floor area to a building or structure, such as chimneys, vents, antennae, open trellises, rooftop equipment and associated screening, solar panels, guard rails for roof decks, and towers including stairway or elevator towers with minimum landings for egress are not considered a part of the height of a building or structure, but all portions of the roof and roof parapet are included.

- B. **Community Benefit and Community Benefit Housing Projects.** In the C-G, M-C, M-I, and OM-1 zones, up to 60 feet in height may be allowed for projects that qualify as a Community Benefit Project or a Community Benefit Housing Project in accordance with the following.

1. ***Required Findings.*** In addition to any other findings required by this Ordinance, the Planning Commission shall make all of the following findings.

- a. *Demonstrated Need.* The applicant has adequately demonstrated a need for the project to exceed 45 feet in height that is related to the project's benefit to the community, or due to site constraints, or in order to achieve desired architectural qualities;
- b. *Architecture and Design.* The project will be exemplary in its design;
- c. *Livability.* If the project includes residential units, the project will provide amenities to its residents which ensure the livability of the project with particular attention to good interior design features such as the amount of light and air, or ceiling plate heights; and
- d. *Sensitivity to Context.* The project design will complement the setting and the character of the neighboring properties with sensitivity to any adjacent federal, state, and City Landmarks or any nearby designated Historic Resources, including City-designated Structures of Merit.

2. ***Procedure***

- a. *Conceptual Design Review.* Prior to the Planning Commission considering an application for a height exception pursuant to this Section, a project shall receive conceptual design review by the Historic Landmarks Commission or the Architectural Board of Review as required by Title 22 of the Santa Barbara Municipal Code.
- b. *Planning Commission Consideration of Findings.*
 - i. Design Review Projects. If a project only requires design review by the Historic Landmarks Commission or the Architectural Board of Review under Title 22 of the Santa Barbara Municipal Code, the Planning Commission shall review and consider the building height findings of this Section after conceptual design review and before consideration of the project by the Historic Landmarks Commission or the Architectural Board of Review for Project Design approval.
 - ii. Staff Hearing Officer Projects. If a project requires the review and approval of a land use permit by the Staff Hearing Officer, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to Title 22 of the Santa Barbara Municipal Code, but before the preparation of a full application for the consideration of the land use permit by the Staff Hearing Officer.

- iii. **Planning Commission Projects.** If a project requires the review and approval of a land use permit by the Planning Commission, the Planning Commission shall review and consider the building height findings after conceptual design review pursuant to Title 22 of the Santa Barbara Municipal Code, but before the Development Application Review Team (DART) submittal and before the consideration of the land use approval by the Planning Commission.

28.23.050 Development Along Creeks

Placeholder. *Currently Section 28.87.250 of the existing Zoning Ordinance. Substantive changes will not be made to these provisions. They will be formatted for consistency with the NZO structure and incorporated into the Final Hearing Draft.*

28.23.060 Development on Lots Divided by Zone Boundaries

- A. **Generally.** Where a lot is divided by a zone boundary, the regulations applicable to each zone shall be applied to the area within the zone, and no use, other than parking serving a principal use on the site, shall be located in a zone in which it is not an allowed use.
- B. **Accessory Facilities.** Accessory landscaping, fences, screening or retaining walls, and usable open space may be located on the lot without regard for zone boundaries but must comply with the standards of the applicable zone
- C. **Density.** The maximum density, if any, shall be calculated according to the lot area within each zone and the corresponding allowable density for that zone, and distributed as follows:
 1. **Residential Single Unit Zones.** Up to the allowable density for the Residential Single Unit portion of the site may be located on the area of the lot in the Residential Single Unit Zone.
 2. **Other Zones.** The resulting maximum permitted number of units may be distributed on the lot without regard for zone boundaries, as long as all portions of the project comply with the development standards of the zone in which they are located and all other provisions of this Section.

28.23.070 Development on Substandard Lots

- A. Any lot or parcel of land that was legally created may be used as a building site even when consisting of less area or lot dimensions than that required by the regulations for the zone in which it is located. Lot area per dwelling unit requirements and all other provisions of this Ordinance shall apply. No substandard lot shall be subdivided or further reduced in area or dimensions unless required for a public purpose by a public agency, unless granted a modification.

- B. Where any existing parcel of land is reduced in size or lot dimensions below those required by this Ordinance by reason of the acquisition of a portion thereof along any perimeter of such parcel for any public purpose by any public agency, such parcel as so reduced shall be considered as conforming to the provisions of this Ordinance as a legal lot. Minimum lot area and lot dimensions required by this Ordinance shall not apply. Lot area per dwelling unit requirements and all other provisions of this Ordinance shall apply. This section shall not apply to property acquired by a public agency as part of subdivision or lot split proceedings.

28.23.080 Encroachments into Setbacks and Open Yards

- A. **Applicability.** Required setback and open yard areas shall be open, unenclosed, and unobstructed by structures from the ground upward, except as provided in this Section. This Section does not apply to Creek Setbacks pursuant to Chapter TBD, or Street Widening Setbacks pursuant to Chapter TBD.
- B. **Maximum Dimension.** The maximum allowed encroachment is three feet, measured perpendicular to the setback line, unless otherwise indicated in this Section.
- C. **Minimum Distance to Property Lines.** Unless otherwise specified below, no front or interior setback encroachment shall be closer than three feet to any lot line when the required setback is six feet or more; and no encroachment shall be closer than two feet to any lot line when the required setback is less than six feet.
- D. **Specific Limitations.** The following specific limitations shall apply to all allowed encroachments:
1. ***All Encroachments.***
 - a. No encroachment shall provide additional floor area within a building;
 - b. Architectural or building projections shall be cantilevered (unsupported from the ground below);
 - c. No encroachment may extend into a public utility easement; and
 - d. Encroachments are subject to all applicable requirements of the Building Code.
 2. ***Open Yard Encroachments.***
 - a. *Vertical Clearance.* The vertical clearance under any cantilevered architectural or building projection shall be seven feet or more; and
 - b. *Maximum Area.* Ground-supported open yard encroachments shall not exceed 20 percent of any individual open yard area, or a cumulative total of 20 percent of the total required open yard area.
- E. **Allowed Encroachments.** The following may encroach into setbacks and open yards, subject to all standards of this Section:

1. ***Building Elements***

- a. *Architectural Projections.* Architectural projects such as awnings, cornices, eaves, and canopies.
 - i. Maximum Dimensions. Maximum Dimensions shall not apply to architectural projection encroachments into a Private Open Yard.
- b. *Balconies.*
 - i. Interior Setback. Balconies are not allowed to encroach into the interior setback in RS zones. In other zones, balconies may encroach a maximum of two feet into the interior setback.
 - ii. Front Setback. In all zones, balconies may encroach a maximum of three feet into the front setback.
 - iii. Maximum Dimensions. Maximum Dimensions shall not apply to balcony encroachments into a Private Open Yard.
- c. *Bay Windows.* Bay windows located at least three feet above adjacent grade or finished floor, whichever is higher.
 - i. Interior Setback. Bay windows are not allowed to encroach into the interior setback in RS zones. In other zones, bay windows may encroach a maximum of two feet into the interior setback.
 - ii. Front Setback. In all zones, bay windows may encroach a maximum of three feet into the front setback.
 - iii. Maximum Dimensions. Maximum Dimensions shall not apply to balcony encroachments into a Private Open Yard.
- d. *Chimneys.* Chimneys serving the interior of a building. Free-standing chimneys are not allowed to encroach into setbacks or open yards.
- e. *Covered Porches and Outside Steps.* Covered porches and outside steps, proposed on buildings existing at the time this Ordinance is adopted, serving the first floor of a building and open on at least two sides.
 - i. Size. Porches shall be limited to a maximum of six feet wide and four feet deep exclusive of handrails, guardrails, wing walls and associated uncovered steps.
 - ii. Interior Setback. Covered porches and outside steps may encroach a maximum three feet into the interior setback, provided that the porch faces the street.
 - iii. Front Setback. Covered porches and outside steps shall be located no closer than five feet to any front lot line.
 - iv. Open Yard. Covered porches and outside steps are not allowed to encroach into open yards.

- f. *Uncovered Entry Landings and Outside Steps.* Uncovered entry landings and outside steps serving as a required means of egress to the first floor of a building.
 - i. Size and Location. Limited to the minimum size required by the Building Code and shall not extend above the first floor level of the building.

2. **Mechanical and Other Equipment**

- a. *Equipment, Attached.* Equipment attached to the outside wall of the building, such as tankless water heaters, air or water filters, or meters. Does not include air conditioners, tank-type water heaters, pool equipment, or other similar free-standing equipment.
- b. *Equipment, Detached.* Detached equipment required for utility purposes only, such as electric transformers and backflow preventers.
 - i. Front Setback. Detached equipment shall be located no closer than 10 feet to any front lot line.
 - ii. Screening. All detached equipment shall be screened from public view.
 - iii. Exceptions. Distance limitations and screening may be reduced or waived by the design review body.
 - iv. Open Yard. Detached equipment is not allowed to encroach into open yards.
- c. *Electric Vehicle Supply Equipment (EVSE).* Electric vehicle supply equipment (EVSE) that serves a permitted parking space.
 - i. Front Setback. Exterior equipment shall be located no closer than 10 feet to any front lot line.
 - ii. Exceptions. Distance limitations may be reduced or waived by the design review body.
 - iii. Maximum Dimensions. Maximum Dimensions shall not apply to EVSE encroachments into an interior setback.
 - iv. Open Yard. EVSE is not allowed to encroach into open yards.
- d. *Rain Barrels.* Rain barrels with a maximum capacity of 65 gallons, or other similar equipment necessary to meet the City's Storm Water Management (SWMP) requirements.
 - i. Front Yards. Rain barrels located within a front yard shall be screened from public view.
 - ii. Private Open Yard. Rain barrels are not allowed to encroach into Private Open Yards.

- e. *Solar Energy Systems.* Solar energy systems as defined in subsection (a) of Civil Code Section 801.5.
 - i. Ground Mounted Equipment. Ground mounted equipment is not allowed to encroach into setbacks or open yards.
 - ii. Roof Mounted Equipment. Roof mounted equipment may encroach into setbacks and open yards the same amount as the existing roof eave if installed roughly parallel to, and no higher than 10 inches above the roof (measured from the top of the roof perpendicularly to the highest point of the solar energy system).

3. ***Site Development***

- a. *Open Yard Amenities.* Open yard amenities intended for outdoor enjoyment of the required open yard area. Open yard amenities may include patio covers and other attached or detached, unenclosed structures such as upper story decks, gazebos, hot tubs, fountains, barbecues, outdoor fireplaces, above-grade pools, large trellises and arbors, and play equipment.
 - i. Setback Encroachment. Open yard amenities shall not encroach into any setback, with the exception of residential front yard amenities allowed pursuant to Subparagraph e, Residential Front Yard Amenities, below.
- b. *Patios.* Patios and other on-grade hardscape, such as paved walkways and outside steps.
 - i. Maximum Height. Patios and other on-grade hardscape shall not exceed 10 inches in height above existing grade.
 - ii. Maximum Dimensions, Maximum Area, and Minimum Distance to Property Lines. Maximum Dimensions, Maximum Area, and Minimum Distance to Property Lines shall not apply to patio encroachments.
- c. *Planter Beds.* Planter beds consisting of low walls and earth for the purpose of providing landscaping and gardening areas.
 - i. Maximum Height. Planter beds shall not exceed 42 inches in height above existing grade.
 - ii. Maximum Dimensions, Maximum Area, and Minimum Distance to Property Lines. Maximum Dimensions, Maximum Area, and Minimum Distance to Property Lines shall not apply to planter bed encroachments.
- d. *Residential Front Yard Amenities.* Residential front yard amenities such as mailboxes and other practical or decorative freestanding front yard elements. Residential front yard amenities include, but are not limited to,

flag poles, fountains, bird baths, and benches, but shall not include any of the prohibited items from §TBD, Storage, or any of the items identified in this Section as either limited or not allowed in the front setback.

- i. Interior Setback Encroachment Prohibited. Residential front yard amenities shall not encroach into interior setbacks.
 - ii. Maximum Size. Residential front yard amenities are limited to a cumulative total of 50 square feet or one percent of the total combined front yard setback area, whichever is greater.
 - iii. Maximum Dimensions, Maximum Area, and Minimum Distance to Property Lines. Maximum Dimensions, Maximum Area, and Minimum Distance to Property Lines shall not apply to residential front yard amenities in the front setback.
- e. *Ground Signs and Outdoor Furniture.* Ground signs and outdoor furniture for commercial uses, consisting of items not permanently affixed to the ground, such as tables, chairs, space heaters, sculptures, and potted plants for the use of permitted restaurants or similar commercial uses.
- i. Prohibited Encroachments. Ground signs and outdoor furniture shall not encroach into the interior setback, open yard, or in any setback required for exclusively residential buildings.
 - ii. Maximum Dimension or the Minimum Distance to Property Lines. Maximum Dimension or the Minimum Distance to Property Lines shall not apply to ground sign and outdoor furniture encroachments in the front setback.
- f. *Small Overhead Structures.* Small overhead structures such as an arbor, arch, trellis, or pergola.
- i. Number of Structures. A maximum of one small overhead structure per lot line may encroach into a setback or open yard.
 - ii. Maximum Height and Area. Small overhead structure shall not exceed eight feet in height or 18 square feet in area.
 - iii. Maximum Dimensions, Maximum Area, and Minimum Distance to Property Lines. Maximum Dimensions, Maximum Area, and Minimum Distance to Property Lines shall not apply to small overhead structure encroachments into setbacks.
- g. *Accessibility Improvements.* Accessibility improvements for persons with disabilities. Reasonable accommodation will be made, consistent with the Americans with Disabilities Act; see Chapter TBD.

28.23.090 Open Yards

- A. **Purpose.** The provisions of this Section are intended to provide standards for minimum open areas within residential development. Required open yard areas are intended to promote desirable living conditions, a sense of openness on residential development, and to provide minimum useful space for outdoor enjoyment.
- B. **Applicability.** Open yards as described in this Section shall be required in all zones for all residential uses; unless otherwise provided in Chapter TBD, Standards for Specific Uses and Activities.
- C. **Minimum Area and Dimensions.** The minimum area and dimensions of required open yards shall be provided as follows:
1. ***Lots Developed with One to Two Units:***
 - a. *Minimum Area:* 1,250 square feet on lots 4,000 square feet or greater; 800 square feet on lots less than 4,000 square feet.
 - b. *Minimum Dimensions:* 20 feet long and 20 feet wide.
 2. ***Lots Developed with Three or More Units or Mixed Use Development:***
 - a. *Minimum Area:* 15 percent of the net lot area;
 - b. *Minimum Dimensions:* 10 feet long and 10 feet wide.
 - c. *Additional Private Open Yard Required per Unit.* In addition to open yard meeting the minimum area and minimum dimension requirements in subparagraphs a. and b. above, Private Open Yard, is required for each residential unit. Private Open Yards located on grade, or on decks no more than 36 in height above grade, may also overlap with other required open yard areas.
 - i. Private Open Yard Located on the First Story:
 - (1) *Minimum Area:*
 - (a) Studio unit: 100 square feet
 - (b) 1 Bedroom unit: 120 square feet
 - (c) 2 Bedroom unit: 140 square feet
 - (d) 3 or more Bedroom unit: 160 square feet
 - (2) *Minimum Dimensions:* 10 feet long and 10 feet wide
 - ii. Private Open Yard Located on a Second or Higher Story:
 - (1) *Minimum Area:*
 - (a) Studio unit: 60 square feet
 - (b) 1 Bedroom unit: 72 square feet

- (c) 2 Bedroom unit: 84 square feet
- (d) 3 or more Bedroom unit: 96 square feet
- (2) Minimum Dimensions: Six feet long and six feet wide.

D. **Standards.** The following standards shall apply to all required open yard areas:

1. **Open.** Required open yard areas shall be open, unenclosed, and unobstructed by structures from the ground upward, except as provided in Section TBD, Encroachments into Setbacks and Open Yards.
2. **Availability.** All open yard areas shall be made available to all residents on site as either a communal area; or, each unit shall be provided at least one area that meets the minimum dimension requirement and shall be contiguous to and accessible from the dwelling unit for which it serves.
3. **Additional Standards for Private Open Yards.** The following additional standards shall apply to all Private Open Yard areas:
 - a. *Availability.* Private Open Yards shall be designed to ensure adequate privacy and usability and must be contiguous to and accessible from the unit served.
 - b. *Required Fence, Screen, Wall, or Hedge.* Private Open Yard areas located in either the front yard or adjacent to another Private Open Yard area shall be surrounded by a solid fence, screen, wall or hedge with a minimum height of five feet and a maximum height of six feet. This requirement may be reduced or waived as determined by the appropriate design review board.

E. **Location.** Required open yard areas shall comply with all of the following location requirements:

1. **Allowed Areas.** Required open yard areas may include interior setbacks and any combination of landscaped areas, natural areas, flat areas, hillsides, paved or other hardscape areas, in-ground swimming pools and spas, and planters and decks that meet the standards of this Section.
2. **On Grade.** Required open yard areas must be located on the ground or decks no more than 36 inches in height above grade.
3. **Multiple Areas.** Required open yards shall be located in one or multiple areas that meet minimum dimension requirements.
4. **Front Yards.** Required open yard area may be located within front yards, except as follows.
 - a. *Primary Front Setback* All required open yard areas shall be located outside the primary front setback and outside the first 10 feet of any secondary front setback measured from the front lot line.

- b. *Lots Developed with One to Two Units.* Lots developed with one to two units must locate at least one open yard area that meets the required minimum dimensions outside the front yard.
- 5. ***Additional Location Requirements for Private Open Yards.*** The following additional location requirements shall apply to all Private Open Yard areas:
 - a. *Multiple Stories.* Dwelling units that occupy more than one story may provide required Private Open Yard on any story.
 - b. *Balconies or Decks.* Private Open Yard areas may be located on a balcony or deck of any height.
 - c. *Front Yards.* Private Open Yards shall be located a minimum of 10 feet from any front lot line, and may not exceed 50 percent of the total front yard area, exclusive of driveways, turnarounds, or parking areas.
 - d. *Overlap.* Private Open Yards located on grade, or on decks no more than 36 in height above grade, may also overlap with other required open yard areas.
 - e. *Creeks.* Private Open Yards Areas may not be located within the top of bank of a watercourse, or within any required watercourse development limitation area.
- 6. ***Prohibited Locations.*** Required open yard areas shall not include any of the following:
 - a. *Vehicle Areas.* Areas designated for use by motor vehicles such as driveways, turnarounds, or parking areas; as well as required parking lot landscaping and screening pursuant to Section TBD, Parking Area Design and Development Standards.
 - b. *Access and Egress Areas.* Areas designed to provide access and/or egress and remain open and passable such as front porches, landings, stairs, and ramps, required access/egress path on a multi-unit or mixed use development.
 - c. *Non-Residential Areas.* Areas used or designed for use by any non-residential purpose.

28.23.100 Fences, Screens, Walls, and Hedges

- A. **School Fencing.** A chain link or open mesh type fence of any height necessary to enclose a Day Care Center or School may be located and maintained in any required yard.
- B. **Barbed Wire, Concertina Wire, Sharp Wire or Points.** No barbed wire or concertina wire shall be used or maintained in or about the construction of a fence, screen, wall or hedge within three feet of any lot line. Sharp wire or points shall not project at the top of any fence or wall less than six feet in height.

- C. **Visibility.** Notwithstanding other provisions of this Section, fences, walls, screens, and hedges must comply with Section TBD, Visibility at Driveways and Intersections unless a Minor Exception is approved pursuant to Subsection E.
- D. **Residential Zones.** The following standards apply to fences, walls, screens, and hedges located within Residential Zones.
1. ***Height Limitations***
 - a. *Within Required Front and Interior Setback Areas.* Eight feet, except fences and walls within 10 feet of a front lot line shall not exceed a height of 42 inches.
 - i. Minor Exception. An additional four feet in height may be approved pursuant to Subsection E, Required Findings for Minor Exceptions.
 - ii. Modification. Additional exceptions may be granted pursuant to Section TBD, Modifications.
 2. ***Guardrails.*** A guardrail may extend above the maximum height limit for a fence or wall without requiring an exception or modification, only to the minimum extent required for safety by the Building Code, and only if the guardrail is made of materials configured such that the guardrail does not create a solid visual barrier.
 3. ***Decorative Elements.***
 - a. *Maximum Height.* Fence and wall decorative elements not wider than nine inches by nine inches, such as pilaster caps, finials, posts, lighting fixtures, or similar decorative features, may exceed the maximum height by a maximum of 12 inches.
 - b. *Spacing.* Decorative features shall be spaced a minimum of six feet apart, measured on-center.
 - c. *Minor Exception.* Minor exceptions to the size and spacing requirements may be approved pursuant to Subsection E, Required Findings for Minor Exceptions.
 4. ***Entryway Arbors.*** One substantially open (no solid walls or roof) entryway arbor used in combination with and attached to a fence or wall is permitted in any front yard, provided the maximum height of the arbor does not exceed eight feet and the area does not exceed 18 square feet. The square footage of the arbor shall be determined by the area located within the rectangle formed around the posts of the arbor or the roof portion of the arbor, whichever dimension is larger.
- E. **Required Findings for Minor Exceptions.** In granting minor exceptions, the Community Development Director or Public Works Director, as applicable, shall make the following findings.

1. ***Exceptions to Height Limitations.***
 - a. If the subject fence, wall, screen, or hedge is located on, or within the required setback of, an interior property line, the adjacent property owner(s) that share a common property line have agreed to the requested exception.
 - b. The granting of such exception will not create or exacerbate an obstruction of the necessary sightlines for safe operation of motor vehicles.
 - c. The fence or wall will be compatible with other similarly situated and approved structures in the neighborhood or the screen or hedge will be compatible with the character of the neighborhood.
 - d. The proposed height of the screen or hedge will respect the height limitation applicable to structures for the protection of solar access as specified in Section TBD.
 - e. The granting of such exception will not be detrimental to the use and enjoyment of other properties in the neighborhood.
 2. ***Exceptions to Visibility Requirements.***
 - a. The granting of such exception will not create or exacerbate an obstruction of the necessary sightlines for safe operation of motor vehicles; and
 - b. The granting of such exception will not be detrimental to the use and enjoyment of the other properties in the neighborhood.
- F. **Relationship with the View Dispute Resolution Process.** The fact that a hedge or screen complies with the standards set forth in this Section or the fact that a property owner has received a Minor Exception or Modification from the standards set forth in this Section shall not preclude another property owner from alleging an unreasonable obstruction of a view and availing himself or herself of the protections and procedures of the City's View Dispute Resolution Process found in Chapter TBD.

28.23.110 Residential Unit

- A. **Applicability.** The standards of this Section apply to all Residential Use Classifications except the following:
 1. Group Residential.
 2. Community Care Facilities, Residential Care Facilities for the Elderly, and Hospices (See Section TBD).
- B. **Minimum Size.** Each studio dwelling unit shall contain a minimum of 220 square feet of liveable floor area and all other units shall contain 400 square feet of liveable floor area, exclusive of accessory buildings.
- C. **Required Features.** Each residential unit shall contain, at a minimum:

1. A kitchen, consisting of a sink, range or built-in stove-top and oven, and refrigeration facilities.
2. A separate bathroom consisting of a toilet, sink, and bathtub or shower.
3. A separate living room a minimum of 120 square feet in size.
4. A sleeping room a minimum of 70 square feet in size, except in studio dwelling units, where a living room is considered a sleeping room.

D. **Limitations.**

1. ***Kitchen Facilities.*** No more than one kitchen per residential unit is allowed.
2. ***Rooms with Adequate Interior Access.*** Rooms determined to have adequate interior access may contain a maximum of two of the following three building elements:
 - a. Utility sink or bar sink.
 - b. Bathroom with bathing facilities.
 - c. Exterior entrance.
3. ***Rooms without Adequate Interior Access.*** Rooms that do not have adequate interior access shall be treated as detached guestrooms subject to Subsection TBD, Detached Guestrooms.
4. ***Determination of Adequate Interior Access.*** The Community Development Director shall make the determination if a building or portion of a building contains adequate interior access to the main living space. Factors that shall be considered include, but are not limited to, building attachment that does not occur via a long separate hallway, or a spiral staircase, or through another bedroom.
5. ***Additional Building Elements.*** Additional residential building elements, beyond those permitted above may be permitted pursuant to a Performance Standard Permit, Chapter TBD.

E. **Determination of Residential Unit.**

1. ***Elements Considered.*** Notwithstanding the above, the Community Development Director has the authority to determine whether a building or portion of a building is configured for use as a separate residential unit, regardless of size, when a building or portion thereof is configured or occupied for residential purposes, whether permanent or temporary, and contains elements evidencing separate residential occupancy. Residential building elements to be considered may include, but are not limited to, the proximal arrangement and various combinations of:
 - a. Kitchen sink, utility sink, lavatory, or bar sink;
 - b. Cooking appliances;
 - c. Refrigeration facilities;

- d. Toilet;
 - e. Bathing facilities
 - f. Lack of interior access, including locking doors;
 - g. Exterior entrance;
 - h. Exterior staircase;
 - i. Spiral staircase;
 - j. Separate yard, patio, deck or balcony;
 - k. Separate utilities, separate meters;
 - l. Multiple water heaters;
 - m. Multiple laundry areas;
 - n. Separate garage, carport, or parking area (covered or uncovered);
 - o. Countertops or cupboards;
 - p. Sleeping loft; or
 - q. Separate address/mail box designation.
2. ***Establishment.*** Issuance of a building permit or other approval does not, of itself, establish that a building or portion thereof is a residential unit.

28.23.120 Solar Access Height Limitations

In addition to any other height limitation imposed in the City Charter or in this Ordinance, the following height limits apply.

A. Height Limitations.

- 1. ***RS and R-2 Zones.*** The maximum height of each point on a structure, measured from the Base Elevation or the elevation at the northerly property line, whichever is higher, shall not exceed the sum of 12 feet and 58 percent of the shortest distance from that point to the nearest northerly lot line as measured horizontally on the plan view of the structure.
- 2. ***All Other Zones.*** The maximum height of each point on a structure, measured from the Base Elevation or the elevation at the northerly property line, whichever is higher, shall not exceed the sum of 18 feet and 58 percent of the shortest distance from that point to the nearest northerly lot line as measured horizontally on the plan view of the structure.

B. Exceptions. The maximum height limits of this Section do not apply to the following.

- 1. Lots with a north property line abutting a street, alley, or a nonresidentially zoned lot.

2. Any flagpole, antenna, ornamental spire, chimney, or other structure or building element, shall be less than four feet along each horizontal dimension.
3. A utility pole and line.
4. Any portion of a structure for which a shadow plan is prepared and submitted by the applicant demonstrating that shadows cast by that portion of the structure at 9:00 a.m., noon, and 3:00 p.m., Pacific Standard Time on December 21 will:
 - a. Not exceed the boundaries of a simultaneous shadow cast by a legally existing structure, or by a hill or other topographical feature other than trees or other vegetation;
 - b. Not shade that portion of any adjacent residentially-zoned lot which is occupied by a dwelling or which could legally and without modification of required setbacks be occupied in the future by a dwelling; or
 - c. Fall entirely within the boundaries of an existing covered or uncovered paved off street parking area, or paved driveway leading thereto.

28.23.130 Street Frontage and Access

Except where otherwise provided in this Ordinance, every main building shall face or have frontage upon a public street or permanent means of access to a street.

28.23.140 Street Widening Setback Lines

***Placeholder.** Currently Chapters 28.82, 28.83, and 28.84 of the existing Zoning Ordinance. Substantive changes will not be made to these provisions. They will be formatted for consistency with the NZO structure and incorporated into the Final Hearing Draft.*

28.23.150 Swimming Pools and Spas

The outside wall of the water-containing portion of any in-ground swimming pool or spa shall be located outside the required setbacks of the base zone or a minimum of 15 feet from the front lot line and five feet from all interior lot lines, whichever is less

28.23.160 Use and Occupancy of Land

No vacant land shall be occupied or used, and no building hereafter erected, structurally altered or moved, shall be occupied or used until a Certificate of Occupancy has been issued by the Chief Building Official.

28.23.170 Visibility at Driveways and Intersections.

Visibility at driveways and intersections shall be maintained in accordance with the following standards. The Public Works Director may grant minor exceptions to these requirements.

- A. **Driveways.** Visibility at a driveway crossing a front property line shall not be blocked above a maximum of 42 inches within the triangle areas described below:
1. ***Street with Sidewalk or Parkway.*** When a driveway directly abuts a portion of a street with a sidewalk or parkway, the triangle is measured on two sides by a distance of 10 feet from the side of a driveway and 10 feet back from the front lot line.
 2. ***Street without Sidewalk or Parkway.*** When a driveway directly abuts a portion of a street without a sidewalk or parkway, the required site distance is established based on legal vehicle speed and the position of the driver's eye in relation to the intersection. Use of the template as shown in Figure TBD does not preclude the need for additional visibility due to site-specific conditions.
- B. **Intersections, Corner.** The required site distance is established based on legal vehicle speed and the position of the driver's eye in relation to the intersection. Structures and landscape located adjacent to intersections controlled by an all-way stop are not subject to additional height restrictions pursuant to this subsection. Use of the template as shown in Figure TBD does not preclude the need for additional visibility due to site-specific conditions.
- C. **Required Reduction for Safety.** If the height of any landscaping or other structure obstructs the sightlines required for the safe operation of motor vehicles, the Traffic Engineer may declare the obstruction to be a public nuisance and require the removal, relocation or reduction of the obstruction in order to provide for the safe operation of motor vehicles.

28.23.180 Waste, Recycling, and Outdoor Storage

- A. **Waste and Recycling Storage.**
1. ***Required Screening.*** Except for single unit residential development, waste and recycling receptacle storage areas shall be screened from view by a fence, wall, landscape planting, or other means from any parking lot, right-of-way, or adjoining residential property. Existing buildings shall comply with this requirement on any change or expansion of use, or when any site alteration that may affect waste and recycling location is proposed.
 2. ***Location.*** No portion of any front yard, any setback, open yard, or front porch shall be used to store waste, recycling or similar receptacles. Except that waste, recycling, or similar receptacles, provided by the City's contracted local waste hauler, may encroach up to three feet into the interior setback, but no closer than two feet to the interior lot line; and in the front yard or front setback no closer than 10 feet to the front lot line; under the following conditions:
 - a. Setback encroachments are available for existing development only. The encroachment is not available for new buildings or additions to existing buildings where the addition precludes the development of a conforming improvement.

- b. Receptacles must be screened by a wall or fence, compatible with adjacent architecture, with a minimum height of five feet for carts/cans, and seven feet for dumpsters.
 - c. When located within a setback or front yard, the waste and recycling enclosure shall be unroofed. It shall not exceed the size required to store the receptacles, as determined by the City's Environmental Services Division.
 - d. The waste and recycling enclosure is subject to the fence and wall height restrictions in Section TBD, Fences, Screens, Walls, and Hedges.
 - e. Waste and recycling enclosures shall be sited to minimize impacts to neighboring properties. Waste and recycling enclosures shall be maintained in good condition, free of visible debris, and shall not be used for anything other than storing waste and recycling receptacles. The waste and recycling enclosure shall not create a nuisance, hazard, or other objectionable condition, pursuant to Chapter TBD, Performance Standards.
- B. **Outdoor Storage.** No portion of any front yard or any setback, required open yard, or front porch shall be used for the storage of motor vehicles, trailers, airplanes, boats, parts of any of the foregoing, appliances, loose rubbish or garbage, junk, tents, building materials, compost pile, or any similar item, for a period of 48 or more consecutive hours, except as provided below.
- 1. Storage established as a permitted use with a certificate of occupancy from the Chief Building Official.
 - 2. Construction materials for use on the same premises may be stored during the time that a valid permit is in effect for construction on the premises.
 - 3. Rain Barrels may be located in the front yard, if screened from public view.

28.23.190 Variable Density in Certain Zones

A. **Applicability.**

- 1. **Applicable Zones.** The provisions of this Section are applicable only in the R-M, RM-H, C-R, C-G, M-C, O-R, and in the HRC-2 and O-C zones where residential uses are allowed by the Local Coastal Plan. Overlay zones shall not prohibit the application of variable density if variable density is otherwise allowed in the base zone.
- 2. **Effective Dates.** The provisions of this Section shall be suspended for the period of time the Average Unit-Size Density Incentive Program established by Chapter TBD, Average Unit-Size Density Incentive Program, is available. During the suspension of the provisions of this Section, the following shall apply:

- a. Projects developed or approved in accordance with this Section while it is in effect shall remain legal conforming land uses.
 - b. Alterations and additions to variable density projects are permitted provided the alterations or additions do not add new residential units or add bedrooms to existing residential units in excess of the number of bedrooms that could have been developed on the real property under the Variable Density Program.
- B. **Allowable Density.** Lots may be used as a building site for more units than the maximum base density of the base zone if the number of bedrooms in the dwelling unit is limited in accord with the following:
 - 1. **Studio unit:** One unit per 1,600 square feet of lot area;
 - 2. **One bedroom unit:** One unit per 1,840 square feet of lot area;
 - 3. **Two bedroom unit:** One unit per 2,320 square feet of lot area;
 - 4. **Three or more bedroom unit:** One unit per 2,800 square feet of lot area.
- C. **Exception.** Existing lots with less than 5,000 square feet of net lot area shall not be used as a building site under this Section for more than two dwelling units.

Chapter 28.24 Density Bonus and Development Incentives

28.24.010 Intent

The intent of this Section is to provide incentives for the development of housing affordable to very-low income, lower income, senior and other qualifying households. State law mandates the provision of density bonuses to senior, very-low, and lower income households under certain circumstances. The City of Santa Barbara has created a separate density bonus program for certain other households.

28.24.020 Density Bonus Under State Law

If a project meets the criteria of State Law, the project shall be granted a density bonus and incentives or concessions as required by State law, and processed as required by State law unless otherwise requested by the applicant.

- A. **Qualifying Housing Developments.** Qualifying Housing Developments are as defined in Government Code Section 65915.
- B. **Unit Size.** Affordable units shall be comparable in size and provide at least the same average number of bedrooms as the non-affordable units.
- C. **Childcare Facility Density Bonus.** When an applicant proposes to construct a housing development that conforms to the requirements of the State Density Bonus law and includes a childcare facility other than a Family Day Care home that will be located on the premises of, as part of, or adjacent to the project, the City shall grant additional density bonus or additional concession or incentive as required by State law.
- D. **Procedure.**
 - 1. **Determination of Qualification.** The applicant shall submit the project for review by the Community Development Director to determine whether the project meets the criteria set forth in State density bonus law.
 - 2. **Density Bonus and Development Incentives.** The density bonus, development incentives, and processing shall be provided as required in Government Code Section 65915.
 - 3. **Review Procedure.** A project which meets all the requirements of State law shall be processed pursuant to the applicable discretionary review procedure, subject to the following exceptions:
 - a. **Lot Area Modification.** When the density bonus requested is no more than the density bonus mandated by State law, the Community Development Director shall deem the project's density consistent with the Zoning Ordinance, and exempt from the requirement for a lot area modification as set forth in Section TBD.

- b. *Design Review Board Hearing.* When the Community Development Director determines that a proposed project meets all the requirements of the residential zoning category in which the project is proposed, does not cause any unavoidable, significant, environmental impacts, and requires design review as its only City discretionary approval, the appropriate Design Review Board shall review the project.

28.24.030 Density Bonus Under City Program

- A. **Qualifying Housing Developments.** When a developer proposes an affordable housing development which is not proposed under the State law criteria and requests a density bonus, the Community Development Director shall review the project for consistency with the City's density bonus program, described in the City of Santa Barbara Affordable Housing Policies and Procedures Manual.
- B. **Procedure.** If the proposed project is determined to be consistent with the criteria of the City's density bonus program, it shall be processed according to the applicable discretionary review procedures and approved or disapproved under the provisions of that program.

Chapter 28.25 Nonconforming Structures, Site Development, and Uses

28.25.010 Purpose

The purpose of this Chapter is to provide for the regulation of nonconforming structures, site development, and uses, and to specify those circumstances under which they shall be permitted to continue and be improved. The provisions of this Chapter are intended to encourage the preservation and reuse of existing development, allow flexibility for improvements in form and design, control such uses and structures so as to reduce adverse effect on adjoining properties, and to preserve the integrity of the area in which it is located.

28.25.020 Applicability

The provisions of this Chapter apply to structures, site development, and uses that have become nonconforming by adoption of this Ordinance as well as structures, site development, and uses that become nonconforming due to subsequent amendments to its text or to the Zoning Map except as follows:

- A. Nothing in this Chapter shall be construed to prohibit any additions or alterations to a nonconforming structure as may be reasonably necessary to comply with any lawful order of any public authority, such as seismic safety requirements, the Americans with Disabilities Act, or a Notice and Order of the Building Official, made in the interest of the public health, welfare, or safety, provided that approvals pursuant to Chapter TBD, Modifications, may be required for such additions or alterations.
- B. Nothing in this Chapter shall be construed or applied to prevent additions, alterations, or replacement of Public Works and Utilities buildings, structures, equipment and facilities where there is no change in use or increase in the project site area.
- C. The provisions in this Chapter do not apply to any structure granted a Modification pursuant to Chapter TBD, Modifications.

28.25.030 Definitions

The following words and phrases shall have the meaning indicated, unless the context or usage clearly requires a different meaning:

- A. **Addition.** New construction that results in an increase to the net floor area of a building.
- B. **Abandonment.** A nonconformity is considered to be abandoned after any of the following have occurred:
 - 1. ***Change to a Conforming Use or Configuration.*** The nonconformity has been changed to a conforming use or configuration,

2. **Discontinuance of Use.** The use has been discontinued pursuant to Section TBD, Discontinuance of Use.
 3. **Demolition.** The structure containing the nonconformity is demolished and not reconstructed pursuant to Section TBD, Demolition and Replacement.
- C. **Alteration.** An interior or exterior change or rearrangement of the existing physical parts of a building, structure, or site development that does not result in an increase to the net floor area. An alteration may also be called a remodel.
- D. **Change in Use.** A change from one Use Classification to another, as described in this Ordinance.
- E. **Compatible Use.** A relatively benign nonconforming use determined to be compatible with surrounding properties by the Community Development Director.
- F. **Continuation.** The state of continuing in the same condition, capacity, or place without change, expansion, or interruption.
- G. **Demolition.**
1. **Demolition.** A demolition occurs when at least two of the three conditions below take place within any 12-month period, except with regard to a historic resource, where demolition is defined in Santa Barbara Municipal Code Section 22.22.020:
 - a. More than 50 percent of the structural elements of the roof or roof framing is removed;
 - b. More than 50 percent of the exterior walls (or vertical supports such as posts or columns when a structure has no walls) of a building or structure are removed or are no longer a necessary and integral structural component of the overall building;
 - c. More than 50 percent of the foundation system is removed, or is no longer a necessary and integral structural component of the overall building, including, but not limited to: perimeter concrete foundation, retaining walls, post and pier foundations, or similar element(s) that connect a structure to the ground and transfers gravity loads from the structure to the ground.
 2. **Upper Floor.** Existing exterior walls supporting a roof that is being modified to accommodate a new floor level or roofline will continue to be considered necessary and integral structural components, provided the existing wall elements remain in place and provide necessary structural support to the building upon completion of the roofline modifications.
 3. **Calculation.** The calculation for determining whether a wall has been demolished will be based on a horizontal measurement of the perimeter exterior wall removed between the structure's footings and the ceiling of the first story. The

calculation for determining whether the roof or foundation system has been demolished will be based on overall square footage of that individual element.

4. **Structures without Walls or Roofs.** Fences, patios, decks or similar, shall be considered demolished when more than 50 percent of either the length or area of the structure is demolished.
- H. **Incompatible Use.** Uses determined to be incompatible or detrimental to surrounding uses by the Community Development Director.
- I. **Nonconforming.** Any lawfully established use, structure, or site development that is in existence on the effective date of this Ordinance or any subsequent amendment but does not comply with all of the standards and requirements of this Ordinance shall be considered nonconforming.
- J. **Nonconforming Density.** A lawfully established development on a lot with more residential units and/or number of bedrooms than are allowed by the current ordinance. Lots that are zoned to allow residential uses, but are nonconforming to density, are not considered a nonconforming use. A residential unit in a zone which does not allow residential uses is a nonconforming use.
- K. **Repair and Maintenance.** The replacement of existing materials with similar materials in a similar manner. Repair and maintenance does not include additions, alterations, or demolition to any building or structure; changes in site development; a substitution of or a change of nonconforming use, or an increase in area occupied by a nonconforming use.
- L. **Structural Alterations.** Any change affecting existing structural elements or requiring new structural elements for vertical or lateral support of an otherwise nonstructural alteration.

28.25.040 Right to Continue, Repair and Maintain

- A. Nonconforming structures, site development, and uses may be continued, repaired and maintained. The right to continue a nonconforming use or structure shall attach to the land and shall not be affected by a change in ownership, tenancy, or management. The right to continue a nonconformity shall terminate once it has been abandoned.
- B. The right to continue does not apply to nonconforming structures, site development, and uses deemed to be a public nuisance because of health or safety conditions, as determined by the Chief Building Official.

28.25.050 Alterations

Alterations to existing nonconforming structures, site development, and structures containing a nonconforming use or nonconforming density are allowed, subject to the following provisions:

A. All Development.

1. For developments involving nonconforming uses, there is no change to a different use classification, structural alterations, or alterations that increase the area of a nonconforming use, or relocate the nonconforming use, except as allowed pursuant to Section TBD, Substitution of Nonconforming Uses or Repair and Maintenance;
2. No new floor area is created;
3. No alteration is made that increases the nonconformity of the structure or site development;
4. There shall be no increase in the size of windows or doors, or any new or relocated windows or doors on any second or higher story for structures located within the interior setback adjacent to a legal residential use or zone;
5. Alterations that increase the height of a building in any setback are allowed, provided that the increase in height of that portion of the roof located in the setback shall not exceed a maximum of 42-inches, nor result in an overall roof pitch greater than 4 inch rise over 12 inch run;
6. Encroachments are allowed pursuant to Section TBD, Encroachments into Setbacks and Open Yards; and
7. All other development standards are met.

B. Development Less than Five Feet to Interior Property Lines. Development constructed closer than five feet to any interior property line, shall also comply with all of the following limitations:

1. There shall be no change of use from residential to nonresidential uses, or from nonresidential uses to residential uses within the nonconforming setback;
2. Garages or carports shall not be converted to storage, workshops, livable space or any use whatsoever, other than covered parking within the nonconforming setback;
3. There shall be no increase in the number of residential units within the nonconforming setback; and
4. On any lot adjacent to a legal residential use or zone, there shall be no increase in the size of windows or doors on the first floor within the nonconforming setback.

28.25.060 Additions

Additions allowed by this Section shall not apply to a development that constitutes or involves a demolition unless otherwise allowed pursuant to Section TBD, Garages and Carports. No demolition shall occur within five years of completion of the addition. The addition shall not be considered complete unless it passes a final inspection or Certificate of Occupancy has been issued.

- A. **Conforming Additions.** Additions to structures that are nonconforming to any development standards are allowed if the additions conform with all development standards of this Ordinance, the existing use and residential density of the property is conforming, and no addition is made that increases the nonconformity of the structure or site development.
- B. **First Floor Additions in Interior Setbacks.** A first floor addition that is located within an interior setback may be made to an existing residential main building that is located within the interior setback, provided the addition meets the following standards, see also Diagram TBD:
 - 1. The cumulative total of new floor area located within an interior setback is equal to or less than the first floor area of the existing, nonconforming portion of the structure located within the same interior setback as of the effective date of this Ordinance;
 - 2. All new construction shall continue the plane of the existing exterior building wall that is located in the setback, and maintain a minimum setback of five feet or the same distance from the closest point of the existing building to the interior lot line, whichever is greater;
 - 3. The maximum cumulative length of the addition located within the interior setback shall not exceed 20 linear feet;
 - 4. The height of the addition within the interior setback shall not exceed the height of the existing portion of the structure located within the interior setback;
 - 5. The existing use and residential density of the property is conforming; and
 - 6. All other development standards are met.
- C. **Additions that Exceed the Maximum Floor Area (Floor to Lot Area Ratio).** An addition of new floor area on a lot that is nonconforming as to the maximum floor area or where the proposed expansion would otherwise be deemed precluded development as specified in Section TBD, Floor Area, Precluded Development-RS Zones, is allowed as follows:
 - 1. The addition shall not exceed 100 square feet of floor area over the floor area legally existing on the lot as of June 7, 2007;
 - 2. Only one addition is allowed; and

3. All other development standards are met.
- D. **Additions on Lots with Nonconforming Residential Density.** An addition of new floor area on a lot containing nonconforming residential density may be allowed, as follows:
1. The net residential floor area on a lot existing as of the effective date of this Ordinance, may be increased by a maximum of 250 square feet through one or multiple additions to the existing residential main or accessory buildings. The addition may be provided as:
 - a. One common room or rooms that serve all units on site (such as a laundry room, storage room, or recreation room); or
 - b. Multiple rooms assigned to individual units, with a maximum of 50 square feet per unit, provided the total does not exceed 250 square feet; and
 2. All other development standards are met.

28.25.070 Garages, Carports and Uncovered Parking

- A. **Alterations, Additions, and Demolition.** In any zone, non-conforming garages and carports may be altered, increased in size, demolished and reconstructed, or any combination of the above, subject to the following provisions:
1. The number of parking spaces shall not be increased within any nonconforming setback;
 2. The new nonconforming setback of the resulting garage or carport shall be no less than the than the existing nonconforming setback;
 3. The garage or carport shall meet, but not exceed, the required minimum dimensions as described in the City Standards for Parking Design;
 4. Garages may be converted to carports, carports may be converted to garages, and garage doors may be altered or relocated;
 5. There shall be no increase in the height of a building or relocation of windows and doors within any setback, except as otherwise allowed under Chapter TBD, Alterations; and
 6. All other development standards are met.
- B. **New Garages and Carports.** New covered parking spaces, up to the minimum number required by this Title may be constructed on lots containing nonconforming residential density, provided that no new floor area is created other than the garage or carport, no alteration is made that increases the nonconformity of the structure or site development, and all other development standards are met.

28.25.080 Nonconforming Uses

- A. **Change of Use.** Nonconforming uses may be changed subject to the following:
1. **Permitted Uses.** Any nonconforming use may be changed to a use that is allowed in the zone in which it is located, provided that it complies with all applicable standards and permit requirements for such use.
 2. **Compatible Uses.** Nonconforming uses may be changed to a compatible nonconforming use.
 3. **Incompatible Uses.** Nonconforming uses shall not be changed to an incompatible nonconforming use.
- B. **Structural Alterations.** Structures containing compatible nonconforming uses may be structurally altered, provided that the alteration does not constitute or involve a demolition.
- C. **Determination of Compatible or Incompatible Use.** The Community Development Director shall determine whether an existing or proposed replacement nonconforming use is compatible or incompatible with surrounding uses. Elements to be considered when making these determinations include, but are not limited to, any combination of the following:
1. Building Code occupancy classification;
 2. Land Use Classification;
 3. Noise;
 4. Odors;
 5. Vibration;
 6. Air pollution including dust and other particulate matter;
 7. Light or glare;
 8. Visual or aesthetic impacts;
 9. Hazardous materials; or
 10. Other detrimental effects.
- D. **Discontinuation of Use.** A nonconforming use shall be considered discontinued when the use ceases for a period of 12-months and evidence that the use has been discontinued occurs. The 12-month limitation may be extended to a maximum of 24 additional months at the Director's sole discretion if due diligence in obtaining permits has been demonstrated. Elements to be considered include, but are not limited to, any combination of the following:
1. The site is vacated;
 2. The business license or other required license lapse;

3. The building is closed for business;
4. There are no persons, materials, equipment, or products occupying the buildings or site;
5. Utilities are terminated; or
6. The lease is terminated.

28.25.090 Demolition and Replacement of Nonconforming Structures

- A. **Verification of Demolition.** When, in the determination of the Community Development Director, there exists the potential for a project to result in a demolition, the applicant shall submit written verification from a registered structural engineer certifying that the roof, exterior walls and foundation shown to remain are structurally sound and will not be required to be removed or replaced for the project. Prior to issuance of a building permit, the property owner and contractor shall sign an affidavit to the City that they are aware of the City's definition of a demolition and the penalties associated with an unlawful demolition.
- B. **Replacement of Demolished Nonconforming Buildings.** A nonconforming building or structure may be demolished and replaced, provided that all of the following conditions are met:
1. **Use.** The demolition and replacement of the nonconforming building or structure does not continue or perpetuate a nonconforming use.
 2. **Height.** The new structure shall not exceed the height of the existing structure, and the new structure shall comply with all current applicable height limitations.
 3. **Footprint.** The replacement building or structure shall be located within the same building footprint and in the same location on the lot as the existing building or structure. The Director may allow a modification/zoning exception pursuant to Section TBD, to this requirement to enable a building to be relocated to a safer or more appropriate location on the lot.
 4. **Floor Area.** The square footage of the replacement building or structure shall not exceed the square footage of the existing building or structure, unless otherwise allowed pursuant to Section TBD, Garages and Carports.
 5. **Residential Units.** The number of residential units shall not be greater than the existing number of residential units.
 6. **Density.** For projects developed using Variable Density, the number of bedrooms per dwelling unit shall not be greater than the existing number of bedrooms. For all other multi-unit development, the unit size shall be no greater than the unit size as the existing development.
 7. **Setbacks.** The building setbacks shall not be less than existing.
 8. **Open Yard.** The open yard shall not be less than existing.

9. **Parking Spaces.** The number of parking spaces shall be no less than the number of existing parking spaces.
 10. **Additions Prohibited.** The demolition and replacement is not combined with an addition to the structure. No addition shall occur within five years of completion of the replacement, unless otherwise allowed pursuant to Section TBD, Garages and Carports. The construction shall not be considered complete unless it passes a final inspection or Certificate of Occupancy has been issued.
 11. **Alterations Allowed.** Any alterations and remodels shall comply with Section TBD, Alterations.
 12. **Encroachments Allowed.** Encroachments into setbacks and open yards are allowed pursuant to Section TBD, Encroachments into Setbacks and Open Yards.
 13. **Permit Required.** The demolition occurred pursuant to a valid permit. All permits for new construction that are required under the Building Code shall be obtained either concurrently with the permit for the demolition or while any discretionary approval is still valid.
- C. **Repair and Replacement of Damaged or Destroyed Nonconforming Buildings.** A lawful nonconforming building or structure that is damaged, destroyed, or partially destroyed due to damage caused by fire, explosion, earthquake, or natural disaster which is not caused by an act or deliberate omission of the property owner, their agent, or person acting on their behalf or in concert with, may be restored or rebuilt and the occupancy and use may be continued or resumed subject to the restrictions in Section TBD, Demolition and Replacement of Nonconforming Buildings, but with the following exceptions:
1. **Use.** The demolition and replacement of the nonconforming building or structure may continue or perpetuate a nonconforming use.
 2. **Height.** The new structure shall not exceed the height of the existing structure, but is not required to comply with all current applicable height limitations.
 3. **Permit Required.** The building permit for the reconstruction, restoration or rebuilding of the structure must be issued within three years of the occurrence of the damage or destruction. Any such reconstruction, restoration or rebuilding shall conform to all applicable adopted Building Codes in effect at the time of reconstruction.
 4. **Plans.** Plans existing in the City's archives and other available information shall be used to determine the size, location, use, and configuration of nonconforming buildings and structures. If a property owner proposes to rebuild the building or structure in accordance with the City's archive plans, a building permit shall be the only required permit or approval.
 - a. Exterior alterations shall be subject to design review, if such review would normally be required by the Santa Barbara Municipal Code.

- b. If the City is not able to verify/confirm/determine the size, location, use and configuration of the nonconforming buildings and structures with the available information, the City shall send a notice to all owners of property within 100 feet of the subject property, advising them of the details of the applicant's request to rebuild, and requesting confirmation of the size, location, use, and configuration of the nonconforming building that is proposed to be rebuilt. The public comment period shall be not less than 10 calendar days as calculated from the date that the notice was mailed.
- D. **Demolition and Replacement of Potentially Hazardous Nonconforming Buildings Subject to the Seismic Safety Ordinance.** *Placeholder. Substantive changes will not be made to these provisions. They will be formatted for consistency with the NZO structure and incorporated into the Final Hearing Draft.*

28.25.100 Fences, Screens, Walls, and Hedges

- A. **Determination of Nonconformity.** A fence, screen, wall, or hedge shall be determined to be nonconforming by the Community Development Director upon receipt of sufficient evidence indicating that the fence, screen, wall, or hedge existed in its present location on January 10, 1957 (the effective date of the first ordinance adopting the provisions of this Section).
- B. **Continuation, Repair and Maintenance.** Any nonconforming fence, screen, wall or hedge may be continued, repaired and maintained, provided there is no physical change other than necessary maintenance and repair in such fence, screen, wall, or fence. A maximum of 50 percent of the length of a nonconforming fence, screen, wall, or hedge may be replaced within any 12-month period except as provided below.
- C. **Demolition and Replacement.** A fence, screen, wall or hedge may not be removed or demolished and replaced if it exceeds the height limitations allowed by this Ordinance, except for fences and walls as provided below.
 - 1. The fence or wall is a significant structure or feature associated with a designated City Landmark or Structure of Merit and the extent of repair, maintenance, or replacement occurs pursuant to Santa Barbara Municipal Code Section 22.22.070; or
 - 2. The retaining wall is necessary to retain or support soil in a vertical or near vertical slope of earth.

28.25.110 Nonconformities Not Specifically Addressed

Development not specifically addressed in this Chapter may be allowed, provided that it does not increase the nonconformity of the structure, site development, use, or residential density, and all other development standards are met.

Chapter 28.26 Off-Street Parking and Loading Requirements

To be addressed with Module #3.

Chapter 28.27 Performance Standards

28.27.010 Purpose

The purposes of this Chapter are to:

- A. Establish permissible limits and permit objective measurement of nuisances, hazards, and objectionable conditions;
- B. Ensure that all uses will provide necessary control measures to protect the community from nuisances, hazards, and objectionable conditions; and
- C. Protect industry from arbitrary exclusion from areas of the City.

28.27.020 General Standard

Land or buildings shall not be used or occupied in a manner creating any dangerous, injurious, or noxious fire, explosive or other hazard that would adversely affect the surrounding area.

28.27.030 Measurement of Impacts

Measurements necessary for determining compliance with the standards of this Chapter shall be taken at the lot line of the establishment or use that is the source of a potentially objectionable condition, hazard, or nuisance.

28.27.040 Dust and Fumes

Uses, activities, and processes shall not operate in a manner that emits excessive dust, fumes, smoke, or particulate matter, unless authorized under federal, State, or local law. Sources of air emissions shall comply with all rules established by the Environmental Protection Agency (Code of Federal Regulations, Title 40), the California Air Resources Board, and the Santa Barbara County Air Pollution Control District.

28.27.050 Electromagnetic Interference

No use, activity or process shall cause electromagnetic interference with normal radio and television reception, or with the function of other electronic equipment beyond the lot line of the site in which it is situated. All uses, activities and processes shall comply with applicable Federal Communications Commission regulations.

28.27.060 Fire and Explosive Hazards

All activities, processes and uses involving the use of, or storage of, flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion. Firefighting and fire suppression equipment and devices standard in industry shall be approved by the Fire Department. All incineration is prohibited with the exception of those substances such as, but not limited to, chemicals, insecticides, hospital materials and waste

products, required by law to be disposed of by burning, and those instances wherein the Fire Department deems it a practical necessity.

28.27.070 Glare

No use shall be operated such that significant, direct glare, incidental to the operation of the use is visible beyond the boundaries of the lot where the use is located.

28.27.080 Hazardous and Extremely Hazardous Materials

The use, handling, storage and transportation of hazardous and extremely hazardous materials shall comply with the provisions of the California Hazardous Materials Regulations and the California Fire and Building Codes, as well as the laws and regulations of the California Department of Toxic Substances Control and the County Environmental Health Agency. Activities, processes, and uses shall not generate or emit any fissionable or radioactive materials into the atmosphere, a sewage system or onto the ground.

28.27.090 Heat and Humidity

Uses, activities, and processes shall not produce any emissions of heat or humidity that cause distress, physical discomfort, or injury to a reasonable person, or interfere with ability to perform work tasks or conduct other customary activities. In no case shall heat emitted by a use cause a temperature increase in excess of five degrees Fahrenheit on another property.

28.27.100 Waste Disposal

- A. **Discharges to Water or Sewers.** Liquids and solids of any kind shall not be discharged, either directly or indirectly, into a public or private body of water, sewage system, watercourse, or into the ground, except in compliance with applicable regulations of the California Regional Water Quality Control Board.
- B. **Containment.** Wastes shall be handled and stored so as to prevent nuisances, health, safety and fire hazards, and to facilitate recycling. Closed containers shall be provided and used for the storage of any materials which by their nature are combustible, volatile, dust, or odor producing or edible or attractive to rodents, vermin, or insects.
- C. **Incineration.** There shall be no rubbish or refuse incineration on the premises.

28.27.110 Noise

No use or activity shall create noise levels that exceed the standards set forth in Chapter 9.16, Noise, of the Santa Barbara Municipal Code.

28.27.120 Odors

No person or business shall cause or allow the emission of offensive, noxious, or foul odors in concentrations which are offensive to a reasonable person, which produce a public nuisance or hazard on adjoining property, or which could be detrimental to human, plant, or animal life

28.27.130 Vibration

No vibration shall be produced that is transmitted through the ground and is discernible without the aid of instruments by a reasonable person at the lot lines of the site. Vibrations from temporary construction, demolition, and vehicles that enter and leave the subject parcel (e.g., construction equipment, trains, trucks, etc.) are exempt from this standard.

Appendix A: Effects of 1975 Rezoning – Setback Standards

Table A-1 compares the zone changes made and resulting impacts to setback standards as a result of residential rezoning that occurred in 1975.

Neighborhood	Current Zoning	Pre-1975 Zoning	Current Front Setback	Pre-1975 Front Setback ¹	Current Interior Setback	Pre-1975 Interior Setback
East & West Mesa	E-3	R-1	20'	15/20'	6'	5'
Required Lot Area	7,500 s.f.	6,000 s.f.				
Alta Mesa (Area 1)	E-1	E-2	30'	25'	10'	8'
Required Lot Area	15,000 s.f.	10,000 s.f.				
Alta Mesa (Area 2)	E-1	E-3	30'	20'	10'	6'
Required Lot Area	15,000 s.f.	7,500 s.f.				
Alta Mesa (Area 3)	E-1	R-2 ²	30'	15/20'	10'	6' ³
Required Lot Area	15,000 s.f.	7,000 s.f.				
Bel Air (Area 1)	E-1	E-3	30'	20'	10'	6'
Required Lot Area	15,000 s.f.	7,500 s.f.				
Bel Air (Area 2)	E-3	R-1	20'	15/20'	6'	5'
Required Lot Area	7,500 s.f.	6,000 s.f.				
Oak Park	E-3	R-1	20'	15/20'	6'	5'
Required Lot Area	7,500 s.f.	6,000 s.f.				
Samarkand (Area 1)	E-3	R-2	20'	15/20'	6'	6'
Required Lot Area	7,500 s.f.	7,000 s.f.				
Samarkand (Area 2)	E-3	R-3 ⁴	20'	10/15'	6'	6/10' ⁵
Required Lot Area	7,500 s.f.	14,000 s.f.				
East San Roque	E-3	R-1	20'	15/20'	6'	5'
Required Lot Area	7,500 s.f.	6,000 s.f.				

¹ On lots that are zoned E-1, E-2, E-3, R-1, and R-2, the required front yard setback can be reduced by 5 feet if the front half of the lot has a slope greater than 20%. This allowance was in effect prior to 1975.

² In 1975, the lot size for R-2 zoned lots was increased from 3,000 s.f. per unit to 7,000 s.f. for newly created lots and 3,500 s.f. per unit.

³ Prior to 1973, the interior setback was 5 feet for R-2 zoned lots. In 1973, it was changed to 6'.

⁴ In 1975, lot size for R-3/R-4 was increased from 1,000 s.f. per unit to 14,000 s.f. for newly created lots. The number of units allowed is dependent on total lot size SBMC §28.21.080. Variable density allowing additional densities based on bedrooms was adopted in May 1978.

⁵ Prior to 1973, the interior setback was 5'/6' for R-3/R-4 zoned lots. In 1973, it was changed to 6'/10'. The setback is based on stories in the building.

Neighborhood	Current Zoning	Pre-1975 Zoning	Current Front Setback	Pre-1975 Front Setback	Current Interior Setback	Pre-1975 Interior Setback
Upper East (Area 1)	E-1	E-2	30'	25'	10'	8'
Required Lot Area	15,000 s.f.	10,000 s.f.				
Upper East (Area 2)	E-1	E-3	30'	20'	10'	6'
Required Lot Area	15,000 s.f.	7,500 s.f.				
Lower Riviera (Area 1)	E-1	E-2	30'	25'	10'	8'
Required Lot Area	15,000 s.f.	10,000 s.f.				
Upper State	E-3	R-1	20'	15/20'	6'	5'
Required Lot Area	7,500 s.f.	6,000 s.f.				
Lower Riviera (Area 2)	E-1	E-3	30'	20'	10'	6'
Required Lot Area	15,000 s.f.	7,500 s.f.				
Lower Riviera	E-1	R-1	30'	15/20'	10'	5'
Required Lot Area	15,000 s.f.	6,000 s.f.				
Eucalyptus Hill	E-3	E-2	20'	25'	6'	8'
Required Lot Area	7,500 s.f.	10,000 s.f.				
Eastside	R-2	R-3	15/20'	10/15'	6'	6/10'
Required Lot Area	7,000 s.f.	14,000 s.f.				
Cielito	A-1	A-2	35'	30'	15'	10'
Required Lot Area	43,560 s.f.	25,000 s.f.				

Table: Open Yard Area Comparison

(NZO Draft Module 2, February 29, 2016)

Zone	Current Zoning Ordinance (\$28.15.060, \$28.18.060, \$28.20.070.G, \$28.21.081)	Development	New Zoning Ordinance (NZO) (\$28.23.090)
Single-Unit	1) 1,250 sq. ft., 20'x20' min. Must be in one area, may not include "remaining" front yard (Exception for lots less than 6,000 sq. ft.) 2) And for lots over 20% avg. slope, an additional 160 sq. ft. "Flat Area."	1 unit	1,250 sq. ft., 20'x20' min. (800 sf for lots less than 4,000 sq. ft.) One or multiple areas OK, at least one area must be behind the residence(s)
Two-Unit	1,250 sq. ft., 20'x20' min., multiple areas OK	1 & 2 units	Same as above
	Same as above	3 units	1) 15% net lot area, on grade, <i>including</i> setbacks 2) 10'x10' min. 3) Private Open Yard, per unit
	1) 1,250 sf, 20'x20' min., multiple areas OK, 2) and Private Outdoor Living Space	4+ units	Same as above
Multi-Unit & Commercial	Either: Private Outdoor Living Space, 10% net lot area on grade, <i>not including</i> setbacks, no minimum dimension; or Common Outdoor Living Space: 15% net lot area with one area 20'x20', no minimum dimension for remainder	1 & 2 units	1,250 sq. ft., 20'x20' min. (800 sf for lots less than 4,000 sq. ft.) One or multiple areas OK, at least one area must be behind the residence(s)
	Same as above	3 units	1) 15% net lot area, on grade, <i>including</i> setbacks 2) 10'x10' min. 3) Private Open Yard, per unit
	Same as above however, Private Outdoor Living Space Method requires <i>Additional 15'x15' Common Open Area</i>	4+ units	Same as above
Any Zone Mixed-Use	Mixed-Use is the same as the Multi-Unit & Commercial Zones	Commercial & Residential on same lot	Same as above
Commercial Zones - AUD Project	In <u>Commercial Zones*</u> only, either: 1) Private Outdoor Living Space, <i>and</i> 15'x15' Common Open Area for 4+ units, <u>10% net lot area on grade is</u> <u>optional</u> ; Or 2) Common Outdoor Living Space: 15% net lot area with one area 20'x20', no minimum dimension for remainder, <u>may be located either on any floor of</u> <u>the building.</u> <i>(*Excluding Medium-High Density, market rate condominium units, in the S-D-2 overlay zone)</i>	Average Unit- Size Density Project	In <u>Commercial Zones*</u> only, same as multi- unit, however, Private Open Yard is required and the <u>15%</u> <u>net lot area is optional.</u> <i>(*Excluding Medium-High Density, market rate condominium units, in the S-D-2 overlay zone)</i>

Table: Open Yard Area Comparison (cont.)

Current Zoning Ord.: "Private Outdoor Living Space" same as New Zoning Ord.: "Private Open Yard"		
	Min Area (Sq. Ft.)	Minimum Dimension
Ground Floor		10 feet
Studio unit	100	
1 Bedroom unit	120	
2 Bedroom unit	140	
3 Bedroom + unit	160	
Second or Higher Story		8 feet
Studio unit	60	
1 Bedroom unit	72	
2 Bedroom unit	84	
3 Bedroom + unit	96	

From: Abbey Fragosa <abbeyfragosa@yahoo.com>
Sent: Monday, December 14, 2015 1:30 AM
To: Aguilar, Marck
Subject: Public Comment for NZO meeting, Dec 14, Fish Processing

I hear from friends and neighbors who were at the December 7 meeting that there was an earlier decision to recommend to remove fish processing business type from the new CM zone, but keep it in the new M1 zone.

I think it would also be wise to not just look at specific zones when dealing with fish processing and similar neighborhood-impacting businesses, but to also look at whether there's a possibility that the zone might be a mixed use area, as is the current situation with the Santa Barbara Fish Market. The Santa Barbara Fish Market is completely surrounded by residential neighbors. It seems that residents are on the bottom rung when it comes to planning on Santa Barbara's eastside.

I found the Planning office to be too legalistic in its assessments, even after us residents made complaints and followed their directives to have the SBFM looked into, long before SBFM even opened their gates. If the Planning office had made provision for taking the brief moment to look into the other uses in our mixed-use neighborhood to see that family homes surround 528 N Quarantina St./711 Bond Avenue, we would not be going on two years now living next to a smelly fish market.

We also, might not be facing a four story apartment complex at 715 Bond Avenue that is proposed in our tiny neighborhood under the AUD plan, nor would we have had to dealt with 5 years living next to a Marijuana dispensary, also at 715 Bond Avenue in the late 2000's.

I feel that the Planning office has done a great disservice to our neighborhood and the eastside in general, using it as a dumping ground.

My request is that the New Zoning Ordinance take into account the impact that it's regulations will make on a community, have a broader scope than block-by-block, use-by-use. Such as an approved marijuana dispensary on Milpas, directly next to two half way houses. Consider where the next homeless shelter will be approved to set up (please no more on the eastside! We already have more than what is equitable for the entire city).

Abbey Fragosa